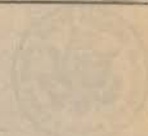


Thursday
September 29, 1988



Testis at Testis



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Title 3—

Proclamation 5865 of September 26, 1988

The President

National Historically Black Colleges Week, 1988

By the President of the United States of America

A Proclamation

Americans view with respect and rejoicing the progress and prospects of our more than 100 historically Black colleges and universities. In the past century and more, these institutions have enabled countless students, many of them disadvantaged, to discover and utilize their capabilities and to seize the world of opportunity afforded by higher education. We can be grateful for the alumni of these schools, for their historic contributions, for their continuing achievements, and for the distinction that is theirs in every field of endeavor across our country and around the globe.

We can all be grateful, too, as this observance brings to mind a movement of decisive national significance in which many students and graduates of historically Black colleges and universities played a large role. The courage and witness of thousands of students from these institutions were key components of the civil rights movement. Their words and action sparked America's conscience and helped lead to the ending of legal sanction for racial discrimination and segregation. The spirit and the example of these brave Americans live on today as the work of brotherhood, understanding, equality, justice, and reconciliation continues across our land.

Historically Black colleges and universities now benefit from the broad recognition they have earned and from closer ties with one another, with research centers, and with private enterprise. These institutions have built a base of scholarship and accomplishment that channels a wealth of talent and creativity into the service of the well-being of Black Americans and the strength of our entire Nation. On the foundation of emancipation in the aftermath of the Civil War, historically Black colleges have erected an impressive edifice of educational experience and excellence. Their legacy of learning and their sustained success will surely remain a tribute to their students, staffs, graduates, and friends and a blessing for every American in the years to come.

The Congress, by Senate Joint Resolution 290, has designated the week beginning September 25, 1988, as "National Historically Black Colleges Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 25, 1988, as National Historically Black Colleges Week. I urge all Americans to observe this week with appropriate ceremonies and activities to express our respect and appreciation for the outstanding academic and social accomplishments of our Nation's historically Black institutions of higher learning.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of September, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

[FR Doc. 88-22617

Filed 9-28-88; 12:02 pm]

Billing code 3195-01-M

Presidential Documents

Proclamation 5866 of September 27, 1988

Religious Freedom Week, 1988

By the President of the United States of America

A Proclamation

America's creed of liberty has never been expressed better than in the words of the Book of Leviticus emblazoned on the Liberty Bell, "Proclaim liberty throughout all the land unto all the inhabitants thereof." The American people have long recognized that the liberty we cherish must include the freedom to worship God as each of us pleases. We can all rejoice in noting that a critical step in the history of this freedom was taken nearly two centuries ago this month.

On September 25, 1789, the Congress proposed and sent to the States for ratification a series of 10 Amendments to the new Constitution. This Bill of Rights would safeguard and perpetuate the rights and liberties for which the American people had fought the War of Independence and the States had ratified the Constitution. Because of the First Amendment's vital clauses—"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . ."—the 199th anniversary of the introduction of the Bill of Rights is a fitting time to begin a week in celebration of religious freedom.

The religious liberty described in this Amendment is the protection of religion and conscience from government interference. It creates neither hostility between government and religion nor a civil religion of secularism. The fundamental principle of religious liberty, that government can neither forbid nor force the people's practice of religion, was essential to the founding of our Nation. Our leaders knew that faith blesses men and nations alike as it fosters morality and justice. George Washington stated in his Farewell Address, "Reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle." The Northwest Ordinance of 1787, which the Congress reenacted in 1789, similarly stated, "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of learning shall forever be encouraged."

The Founders realized that we must guard freedom of religion with eternal vigilance against tyranny and bigotry. Washington emphasized this in a letter to Moses Seixas of the Hebrew Congregation of Touro Synagogue in Newport, Rhode Island, in 1790. Our first President noted Americans' "liberty of conscience and immunities of citizenship" and said that it was not "by the indulgence of one class of people that another enjoyed the exercise, of their inherent natural rights." Rather, "happily the Government of the United States, . . . gives to bigotry no sanction, to persecution no assistance. . . ."

President Washington proudly called this policy "enlarged and liberal" and "worthy of imitation." Through the years, Americans of goodwill have echoed these sentiments, seeking freedom, brotherhood, justice, and reconciliation. We will always do so if we continue to revere the First Amendment's protection of religious freedom.

The Congress, by House Joint Resolution 518, has designated the week of September 25, 1988, as "Religious Freedom Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning September 25, 1988, as Religious Freedom Week. I urge the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

[FR Doc. 88-22618

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Rules and Regulations

Federal Register

Vol. 53, No. 189

Thursday, September 29, 1988

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1403

Interest on Delinquent Debts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The proposed rule published in the *Federal Register* on December 29, 1987, at 52 FR 49028, amended the regulation for the assessment of late payment charges on delinquent debts owed to CCC from 30-day periods to assessment on a daily basis and revised the definition of "late payment charge" to be synonymous with "late payment interest" and "claim interest". The authority for the regulation is the Commodity Credit Corporation Charter Act.

EFFECTIVE DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Andree DuVarney, Claims Specialist, (202) 447-4298.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with provisions of Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major" because this rule will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action does not constitute a review as to need, currency, clarity, and

effectiveness of these regulations under Departmental Regulation 1512-1. No sunset review date has been set for this regulation because review is ongoing.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

This activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since this action will not increase the federal paperwork burden for individuals, small businesses, and other persons. In addition, CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The titles and numbers of the Federal Domestic Assistance Programs to which this rule applies are: Commodity Loans and Purchases, 10.051; Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Storage Facilities and Equipment loans, 10.056; Wheat Production Stabilization, 10.058; Rice Production Stabilization, 10.065; Grain Reserve Program, 10.067; as listed in the Catalog of Federal Domestic Assistance.

The Attorney General and Comptroller General have jointly promulgated the Federal Claims Collection Standards (FCCS) in 4 CFR Parts 101 through 105 as mandated by the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711-3719). CCC is generally exempt from the provisions of FCCS, since CCC has the authority under section 4(k) of the CCC Charter Act (15 U.S.C. 714b(k)) to make final and conclusive settlement and adjustment of all its claims. However, the Board of Directors, CCC, has administratively determined that the FCCS shall be applicable to all claims by CCC regardless of the amount (CCC Claims Policy Docket CZ161a, Revision 4).

The FCCS requires that interest be charged on delinquent debts. In accordance with the FCCS, CCC issued

regulations at 7 CFR 1043.3(c), to provide that the late payment charge will be applied to delinquent debts for each 30-day period and that the full amount of the late payment charge will also be applicable to periods of less than 30 days. The effect of the regulation tends to encourage payments to be made at the end of the month.

CCC has determined to revise this regulation to assess late payment charge on a daily basis rather than for each 30-day period to provide some incentive to spread payments throughout the month. This revision will also more closely align the calculation of late payment charge with the calculation of interest charged for other USDA programs, will provide an incentive to debtors to repay debts earlier and will spread the CCC workload throughout the month.

The revision to the regulation to define "late payment charge" to be synonymous with "late payment interest" and "claim interest" is made to clarify the meaning of the terms to the public.

No comments to the proposed rule published December 29, 1987, were received. However, CCC has determined to change the provision in the proposed regulation that the late payment charge be computed through the date payment is received. Instead, the final rule provides that the late payment charge will be applied to the delinquent debt up to but not including, the date payment is received. This change aligns the calculation with ordinary commercial methods of calculating interest.

List of Subjects in 7 CFR Part 1403

Claims, Income taxes, Loan program—agriculture.

Accordingly the regulations at 7 CFR Part 1403 are amended to read as follows:

PART 1403—[AMENDED]

1. The authority citation for 7 CFR Part 1403 is amended to read as follows:

Authority: 15 U.S.C. 714b; 7 U.S.C. 1427.

2. 7 CFR 1403.2 is amended by revising paragraph (a) to read as follows:

§ 1403.2 Definitions.

(a) "Late payment charge", "late payment interest", and "claim interest" are deemed synonymous and are used interchangeably. These terms mean the

amount of interest charged on delinquent debts.

3. 7 CFR 1403.3 is amended by revising paragraph (c) to read as follows:

§ 1403.3 Late payment charge.

(c) The late payment charge will be applied to the delinquent debt on a daily basis up to but not including the date payment is received by CCC.

Signed at Washington, DC, on September 22, 1988.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88-22391 Filed 9-28-88; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 88-144]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Louisiana from Class C to Class B. We have determined that Louisiana now meets the standards for Class B status. This action relieves certain restrictions on the interstate movement of cattle from Louisiana.

DATES: Interim rule effective September 29, 1988. Consideration will be given only to comments postmarked or received on or before November 28, 1988.

ADDRESSES: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC 20090-6464. Please state that your comments refer to Docket Number 88-144. Comments received may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Jan Huber, Senior Staff Veterinarian, Domestic Programs Support Staff, VS, APHIS, USDA, Room 812, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5965.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man. It is caused by bacteria of the genus *Brucella*.

The brucellosis regulations contained in 9 CFR Part 78 (referred to below as the regulations) provide a system for classifying states or portions of states according to the rate of brucella infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for states or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a state approaches or achieves Class Free status.

The standards for the different classifications of states or areas entail maintaining (1) a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughtering establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds from which infected animals have been sold or received, and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the publication of this interim rule, Louisiana was classified as a Class C state because of its herd infection rate and its MCI reactor prevalence rate. However, after reviewing its brucellosis program records, we have concluded that Louisiana meets the standards for Class B status.

To attain and maintain Class B status, certain criteria must be met. A state or area must not exceed a cattle herd infection rate due to field strain *Brucella abortus* of 1.5 percent, or 15 herds per

1,000 during any 12 consecutive months, except in the states with 1,000 or fewer herds. A state or area must also maintain a 12-consecutive-month MCI reactor prevalence rate not to exceed three reactors per 1,000 cattle tested (0.30 percent). Finally, herd owners must have an individual herd plan in effect within 45 days of discovering that their cattle have been exposed to brucellosis.

Since Louisiana now meets the standards for classification as Class B, we are removing it from the list of Class C states in § 78.41(d) and adding it to the list of Class B states in § 78.41(c). This action relieves certain restrictions on moving cattle interstate from Louisiana.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause to publish this rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Louisiana.

Since prior notice and other public procedures with respect to this rule are impracticable and contrary to the public interest under these circumstances, and because this rule removes a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments postmarked or received within 60 days of publication of this interim rule in the *Federal Register*. Any amendments we make to this interim rule as a result of these comments will be published in the *Federal Register* following the close of the comment period.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its

review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Louisiana from Class C to Class B reduces certain testing and other requirements governing the interstate movement of cattle from Louisiana. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Also, cattle from certified brucellosis free herds moving interstate are not affected by this change.

The groups affected by this action will be certain herd owners in Louisiana, as well as out-of-state buyers of Louisiana cattle. Approximately 53,000 cattle are tested for brucellosis in Louisiana each year. Under Class C status, nonvaccinated female cattle born before January 1, 1984 must have two negative brucellosis tests before being moved interstate. Under Class B status, these cattle do not require a second negative brucellosis test. Cattle that would not require this second test under Class B status comprise approximately 10 percent (or 5,300 animals) of the 53,000 cattle tested for brucellosis in Louisiana each year. Since each test costs an average of \$7, the state's cattle industry could realize an estimated savings of \$37,100 yearly.

We have therefore determined that changing Louisiana's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this interim rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under § 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR Part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111-114a-1, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (d) is amended by removing "and Louisiana".

3. Section 78.41, paragraph (c) is amended by adding "Louisiana," immediately after "Kentucky,".

Done in Washington, DC, this 26th day of September, 1988.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-22387 Filed 9-28-88; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 052CE, Special Condition No. 23-ACE-40]

Special Conditions; Fairchild Models SA227-CC, SA227-DC, and SA228-AE Airplanes; Emergency Lighting System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued to become part of the type certification basis for the Fairchild Aircraft Corporation Models SA227-CC, SA227-DC, and SA228-AE Airplanes to be certified as a commuter category airplane. The commuter category certification standards require an emergency evacuation demonstration, but it does not contain a requirement for emergency lighting to aid in emergency evacuation. When an applicant chooses to install an emergency lighting system and use it during the required evacuation demonstration, appropriate standards must be adopted to assure the system performs its functions when the critical event occurs. These special conditions contain the additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT:

Ervin Dvorak, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room

1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 426-5688.

SUPPLEMENTARY INFORMATION:

Background

On February 17, 1987, Fairchild Aircraft Corporation, Post Office Box 32486, San Antonio, Texas 78284, made application to the FAA for a type certificate for the Fairchild Aircraft Corporation Model SA227-CC Airplanes which will incorporate an emergency lighting system. Later Fairchild Aircraft Corporation made application for Fairchild Aircraft Corporation Models SA227-DC and SA228-AE Airplanes, which will also incorporate the emergency lighting system and will have the same type certification basis.

Fairchild Aircraft Corporation plans to certify a 19-place commuter category airplane which incorporates three window exits and a main cabin door for egress from the airplane. In addition, they propose to install an emergency lighting system for use during emergency evacuation. The commuter category airplane certification standards require an emergency evacuation demonstration but do not require an emergency lighting system; therefore, the standards do not contain design criteria should this system be installed.

Past emergency evacuation demonstrations on similar airplanes have shown that the most critical aspects of the emergency evacuation are for the passengers to locate and to open the emergency exits. The passenger cabin length is approximately 25 feet with the entrance door at one end of the cabin and the window exits located about the middle of the cabin.

Since the installation of emergency lighting systems in these airplanes was not envisioned when the applicable requirements for the subject airplanes were promulgated, special conditions are being issued. Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) or § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.17(a)(2) or § 21.101(b)(2).

An emergency evacuation demonstration is required for the affected airplanes. The applicable

requirements neither contain a requirement for emergency lighting to aid in emergency evacuation, nor do they include design criteria should the applicant choose to include such features. If Fairchild Aircraft Corporation chooses to install emergency lighting in the Fairchild Models SA227-CC, SA227-DC, and SA228-AE Airplanes in order to improve emergency evacuation, and use such lighting during the required evacuation demonstration, appropriate standards must be adopted.

An emergency lighting system is not required by Part 23, but when an applicant chooses to provide such lighting, the FAA must evaluate such lighting relative to its intended function. If that intended function would affect the showing of compliance with an existing requirement, the FAA must assure that the additional system performs its function when the critical event occurs, in this case, an actual emergency evacuation. The FAA concludes that specific criteria are necessary.

Experience with emergency lighting systems in other Part 23 airplanes has shown that a common power source may be used for the emergency lighting system and the normal airplane lighting system. In such a system, the routine use of the normal lighting system, both in flight and on the ground may deplete the source of energy for the emergency lighting system power source. Also normal electrical systems are deactivated during emergencies to prevent those systems from becoming the ignition source of a post-crash fire. A power source for the emergency lighting system must be available during such emergencies. To ensure this availability, the emergency lighting power source must be dependent of the normal lighting system power source.

In a survivable crash, the cockpit crew may be disabled and unable to turn on the emergency lights. Therefore, in addition to having cockpit controls for turning on the lights, a control must also be available in the cockpit to arm the emergency lighting system. To assure activation of the emergency lighting system, automatic activation must occur when the engine-driven electrical generator power is lost or an impact sensor must be provided to turn the armed system on. The impact sensor detects the operational parameters which indicate a crash situation.

The emergency lighting system should only be armed during flight operations. Because crew action is required to arm the system, there must be a caution light to alert the crew if normal electrical

power is on in the airplane and the emergency lighting system is not armed.

Emergency evacuation must be demonstrated and accomplished in 90 seconds or less; however, in a survivable crash where injuries occur, significantly longer evacuation times may be necessary. Therefore, the energy supply for the emergency lighting system must be adequate for ten minutes.

Common practice is to use rechargeable batteries, but non-rechargeable batteries may be used. Regardless of which type of battery is used, the design must provide warning of charging circuit faults or inadequate battery charge.

The emergency lighting system must be functional after being subjected to the inertia forces expected in a survivable crash. Those forces are set forth in § 23.561(b).

During a survivable crash, various modes of system damage will occur, up to and including single transverse vertical separation of fuselage. Any such single occurrence must not render the total emergency lighting system inoperative.

The minimum level of illumination is optional because providing any lighting at all is optional. However, the maximum illumination used during the emergency evacuation demonstration must be the minimum available after any single probable failure.

Type Certification Basis

The type certification basis for the Fairchild Aircraft Corporation Models SA227-CC, SA227-DC, and SA228-AE Airplane are as follows: Part 23 of the Federal Aviation Regulations, effective February 1, 1965, as amended by Amendments 23-1 through 23-34; Part 36, effective December 1, 1969, as amended by Amendments 36-1 through 36-13; SFAR 23, effective January 1, 1984 as amended by Amendments 27-1 through 27-6; and these special conditions.

Discussion of Comments

Notice of Proposed Special Conditions, Notice 23-ACE-40, Docket 052CE, was published in the Federal Register on April 11, 1988 [53 FR 11869] and the comment period closed May 11, 1988. The FAA received no comments in response to Notice 23-ACE-40.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance

with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

In view of the design features discussed above, the following special conditions are issued for the emergency lighting system installation in the Fairchild Aircraft Corporation Model SA227-CC, SA227-DC, and SA228-AE Airplanes under the provisions of § 21.16 to provide a level safety equivalent to that intended by the regulations incorporated by reference. This action is not a rule of general applicability and affects only the model/series of airplane identified in these special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aircraft, Aviation safety, Air transportation, Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 21.16 and 21.17, and § 21.101; and 14 CFR 11.28 and 11.29(b).

The Special Conditions

In consideration of the foregoing, the following special conditions are issued as a part of the type certification basis for the Fairchild Aircraft Corporation Models SA227-CC, SA227-DC, and SA228-AE Airplanes when equipped with an emergency lighting system intended for use during emergency evacuation of the affected airplanes.

Emergency Lighting

1. If an emergency lighting system is installed and used as an aid in showing compliance with any applicable regulatory requirement, including emergency evacuation demonstrations, the following special conditions apply:

(a) The source of illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(b) There must be a caution light which illuminates in the cockpit when power is on in the airplane and the emergency lighting control device is not armed.

(c) The emergency lights must be operable manually from the flightcrew station and be provided with automatic activation. The cockpit control device must have an "on", "off", and "armed" position so that, when armed in the cockpit, the lights will operate by automatic activation. The emergency light must be armed or turned on during taxiing, takeoff, and landing. For automatic activation of the system the sensor must—

(1) Activate when the airplane's normal electrical power is lost, or

(2) Activate when subjected to impact operational parameters approved by the FAA; and

(3) Regardless of sensor type, must be capable of being reset by the flightcrew if activated by any occurrence other than a survivable crash.

(d) The energy supply to each emergency lighting unit must provide the required level of illumination for at least 10 minutes at the critical ambient condition after emergency landing.

(e) If rechargeable batteries are used as the energy supply for the emergency lighting system, the charging circuit must be designed to preclude inadvertent battery discharge into charging circuit faults. If the emergency lighting system does not include a charging circuit, then battery condition monitors are required.

(f) Components of the emergency lighting system, including batteries, wiring relays, lamps, and switches must be capable of normal operation after having been subjected to the inertia forces listed in § 23.561(b).

(g) The emergency lighting system must be designed so that a single probable failure, or probable system damage following a survivable crash, will not render the entire emergency lighting system inoperative. Single transverse vertical separation of the fuselage is considered a probable event during a survivable crash. The minimum emergency illumination, after a single probable failure, must be specified by the applicant. During the emergency evacuation demonstration, the maximum emergency illumination must be equal to or less than the specified minimum emergency illumination level.

Issued in Washington, DC on August 24, 1988.

Thomas E. McSweeney,

Acting Director of Airworthiness.

[FR Doc. 88-22371 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-CE-15-AD; Amdt. 39-6028]

Airworthiness Directives; Beech Models F33A, F33C, V35B, A36, A36TC, B36TC, 95-B55, 95-B55A, E55, E55A, 58, 58A, 58P, 58PA, 58TC, and 58TCA Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech Models F33A, F33C, V35B, A36, A36TC, B36TC, 95-B55, 95-B55A, E55, E55A, 58, 58A, 58P, 58PA, 58TC, and 58TCA airplanes, which requires modification and inspection of pilot's and copilot's center seat tracks and the seat attachment to prevent possible failure under

emergency landing conditions. Some seat positions were found to be structurally inadequate, and washers required with small diameter nuts may have been omitted. The actions specified in this AD will correct these conditions.

DATE: Effective Date: October 31, 1988.

COMPLIANCE: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

ADDRESSES: Beech Service Bulletin Number 2010, Revision 1, dated May 1988, and Service Bulletin Number 2233, dated April 1988, applicable to this AD, may be obtained from Beech Aircraft Corporation, Commercial Service, Dept. 52, P.O. Box 85, Wichita, Kansas 67201-0085 or may be examined at the Rules Docket, Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Larry Engler, Federal Aviation Administration, Wichita Aircraft Certification Office, ACE-120W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the modification and inspection of pilot's and copilot's center seat tracks and the seat attachment to prevent possible failure under emergency landing conditions on certain Beech Models F33A, F33C, V35B, A36, A36TC, B36TC, 95-B55, 95-B55A, E55, E55A, 58, 58A, 58P, 58PA, 58TC, and 58TCA airplanes was published in the Federal Register on June 23, 1988 [53 FR 23642]. The proposal resulted from seat assembly failures that occurred during certification testing for the 1984 models of the pilot's and copilot's seats on models of the Beech 36 and 58 series airplanes. To correct this, the seat track support structure was reinforced and washers were installed under small diameter nuts on the test seat. The stronger seat track support structure was subsequently incorporated into production. It was later determined, based on these tests, that airplanes built between 1975 and 1984 were structurally inadequate.

In early 1975, three additional aft positions were added to the pilot and copilot's seat travel. It was with the seats in the most aft of these added positions that the test failures occurred. The previous seat track configuration prior to 1975 has also been tested with the seat in the position just forward of

the three added positions. The seat track structure has design load capability with the seat in this position but not in any position aft. Beech has published Service Bulletin Number 2010 Revision 1, dated May 1988, that specifies inspections of the seat foot assembly for the presence of the washer and instructions to fill the three aft seat position holes to prevent their usage. Service Bulletin Number 2233, dated April 1988, has been developed by Beech as an optional kit which reinforces the seat track structure and provides a means of restoring the full seat travel. Although there have been no field reports of seat or seat track failures, the structure does not comply with regulation strength requirements. Therefore, to prevent possible crew injury due to seat failure during an emergency or crash landing, an AD was proposed that would require compliance with Beech Service Bulletin Number 2010 or as an option installation of the kit provided in Beech Service Bulletin Number 2233. Since the condition described is likely to exist or develop in other Beech Models of the same design, and AD was proposed which would require filling the three aft seat positioning holes in the center seat track for the pilot's and copilot's seats or installation of seat track reinforcement, and inspection to determine proper installation of washers on the seat frame assembly.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change except for minor editorial clarifications.

The FAA has determined that this regulation only involves 4,000 airplanes at an approximate one-time cost of \$90 for each airplane, or a total one-time fleet cost of \$360,000. The cost of the compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of the Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[Amended]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to the Beech airplanes listed below, certificated in any category:

TABLE 1

Model	Serial No.	Compliance paragraph
F33A	CE-621 through CE-1024.	(b)
F33C	CJ-112 through CJ-155...	(b)
V35B	D-9830 through D-10403.	(b)
A36	E-632 through E-789	(a)
	E-790 through E-1945	(a)(b)
	E-1947 through E-2103	(a)(b)
	E-2105 through E-2110	(a)(b)
A36TC, B36TC.	EA-2 through EA-319	(a)(b)
95-B55, 95-B55A.	EA-321 through EA-388	(a)(b)
E-55, E-55A	TC-1918 through TC-2456.	(b)
	TE-1071 through TD-1201.	(b)
58, 58A	TH-579 through TH-702	(a)
	TH-703 through TH-1388.	(a)(b)
	TH-1390 through TH-1395.	(a)(b)
58P, 58PA	TJ-12 through TJ-27	(a)
	TJ-28 through TJ-435	(a)(b)
	TJ-437 through TJ-443	(a)(b)
58TC, 58TCA	TK-1, TK-2	(a)
	TK-3 through TK-146	(a)(b)
	TK-148 through TK-150	(a)(b)

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent failure of the pilots and copilots seat attachment during an emergency landing condition, accomplish the following:

(a) For the airplanes identified in Table 1 as requiring Compliance Paragraph (a):

Fill the three aft seat positioning holes in the center seat tracks of the pilot and copilot seats in accordance with Beech Service Bulletin Number 2010, Revision 1, dated May 1988. The seat track reinforcement provided in Beech Service Bulletin Number 2233, dated April 1988, may be installed in lieu of filling these holes.

(b) For the airplanes identified in Table 1 as requiring Compliance Paragraph (b):

(1) Inspect the aft bolts on the two aft feet on both the pilot and copilot seat frame assemblies to insure that a AN960-10 washer has been installed under the nut. If a washer has been installed and the provisions of paragraph (a) have been completed, if applicable, the airplane may be returned to service.

(2) If no washer is found per paragraph (b)(1) above, prior to further flight install an AN960-10 washer under the nut, on the lower aft bolt as shown in Service Bulletin No. 2010, Revision 1, dated May 1988. This applies to both the left and right hand sides of the pilot and copilot seat frame assemblies.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Dept. 52, P.O. Box 85, Wichita, Kansas 67201-0085; or may examine the documents referred to herein at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on October 31, 1988.

Issued in Kansas City, Missouri, on September 15, 1988.

Don C. Jacobsen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-22316 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-138-AD; Amdt. 39-6038]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires inspection of trailing edge flap tracks for cracking, and repair, if necessary. This amendment is being issued to require more frequent inspection of flap tracks Numbers 1 through 8. This amendment is prompted by a recent flap track failure which occurred shortly after the track was inspected visually and ultrasonically in accordance with the existing AD. Cracking could lead to failure of the flap track and separation of the flap, which could result in partial loss of controllability of the airplane.

EFFECTIVE DATE: October 14, 1988.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Branch ANM-120S; telephone (206) 431-1925. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On July 20, 1988, the FAA issued AD 88-16-03, Amendment 39-5985 (53 FR 27956; July 26, 1988), applicable to Boeing Model 747 series airplanes, which requires visual and ultrasonic inspection for cracking of the flap tracks, Numbers 1 through 8, and repair of cracked parts, if necessary. Recently at 153 landings since the last required inspection, a Number 6 flap track on a Model 747 series airplane failed at the forwardmost fastener hole common to the fail-safe bar. This indicates that the currently required inspection apparently is not conducted frequently enough to detect a crack before it becomes critical. Cracks, if allowed to progress undetected, could lead to failure of the flap track and separation of the flap, which could result in partial loss of controllability of the airplane.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-57A2229, Revision 5, dated June 2, 1988, which describes a procedure for visual and ultrasonic inspection of the area adjacent to the first four fastener holes

from the forward end of flap tracks Numbers 1 through 8, and repair, as necessary.

Since this condition is likely to exist or develop on other airplanes of the same type design, this action revises AD 88-16-03 to require more frequent visual and ultrasonic inspections of the trailing edge flap tracks for cracks and repair, if necessary, in accordance with the Boeing Alert Service Bulletin described above. This is considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 88-16-03, Amendment 39-5985 (53 FR 27956; July 26, 1988), by revising paragraph A., to read as follows:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747-57A2229, Revision 5, dated June 2, 1988, certificated in any category, that have reworked or interim production flap tracks (part numbers identified in the service bulletin). Compliance required as indicated, unless previously accomplished.

To prevent failure of the trailing edge flap tracks, accomplish the following:

A.1. Within the next 50 landings after the effective date of this amendment, unless accomplished within the last 25 landings, and at intervals thereafter not to exceed 75 landings, visually and ultrasonically inspect the lower flanges and vertical webs at the front end of the Numbers 1 through 8 flap tracks for cracks adjacent to bolt Numbers 1 through 4, in accordance with the procedures described in Boeing Service Bulletin 747-57A2229, Revision 5, dated June 2, 1988.

2. Replace cracked flap tracks prior to further flight in accordance with Boeing Service Bulletin 747-57-2146, Revision 3, dated May 9, 1986.

B. Within the next 50 landings after the effective date of Amendment 39-5985 (August 15, 1988), unless accomplished within the past 950 landings, and at intervals thereafter not to exceed 1,000 landings, visually inspect the Numbers 1 through 8 flap track webs for cracks extending from all fastener holes not inspected under paragraph A.1., above, in accordance with Boeing Service Bulletin 747-57-2146, Revision 3, dated May 9, 1986. Cracked parts must be replaced prior to further flight.

C. An alternate means of compliance or adjustments of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note:—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information

may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 14, 1988.

Issued in Seattle, Washington, on September 16, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 22324 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-63-AD; Amdt. 39-6037]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to British Aerospace Model BAC 1-11 200 and 400 series airplanes, which currently requires structural inspections and repairs or replacement, as necessary, on high-time British Aerospace Model 1-11 200 and 400 series airplanes to assure continued airworthiness. That action was prompted by the fact that some of these model airplanes have exceeded the manufacturers' original fatigue design life goal. These older airplanes are the ones most likely to develop fatigue cracks. This amendment is prompted by a structural re-evaluation, which identified the requirements for additional inspection procedures for some variations of the airplane. It also identified the need to change some threshold inspection times, repetitive inspection intervals, and methods of inspections. This amendment defines structural inspection requirements necessary to assure continued structural integrity of these airplanes.

EFFECTIVE DATE: November 3, 1988.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East

Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

A proposal to amend Part 39 of the Federal Aviation Regulations by revising AD 87-24-06, Amendment 39-5772 (52 FR 44097; November 18, 1987), applicable to Model BAC 1-11 200 and 400 series airplanes, to require certain structural inspections, and repairs or replacement, as necessary, was published in the *Federal Register* on June 21, 1988 (53 FR 23252).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the proposal.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Action 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

It is estimated that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 129 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$361,200.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act

that this rule will not have a significant economic impact, positive or negative, effect on a substantial number of small entities, because few, if any, British Aerospace Model BAC 1-11 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. By revising AD 87-24-06, Amendment 39-5772 (52 FR 44097; November 18, 1987), by adding new paragraphs 3. and 4., and redesignating existing paragraphs 3., 4., and 5., as 5., 6., and 7., respectively, as follows:

British Aerospace: Applies to Model BAC 1-11 200, 400, series airplanes, certificated in any category. Compliance is required as indicated below, unless previously accomplished.

To ensure continuing structural integrity, accomplish the following:

1. On or before December 24, 1988, incorporate a revision into the FAA-approved maintenance inspection program which requires accomplishment of the inspections and repairs, as necessary, for each Structural Significant Item as listed in Table 1 of British Aerospace BAC 1-11 Alert Service Bulletin 51-A-PM5830, Supplemental Inspection Document, Issue 2, dated March 21, 1983. The revision to the maintenance program must include procedures to notify the manufacturer of the results of all inspections, including nil defects, of significant structural items. The inspection thresholds, repetitive intervals, and inspection techniques are listed in the alert service bulletin.

2. Inspect each Structural Significant Item on or before June 24, 1989, or prior to the accumulation of the number of landings listed in the landing threshold indicated in the alert service bulletin, whichever occurs later, and thereafter, repeat these inspections at intervals not to exceed the number of landings specified in the service bulletin.

3. Within six months from the effective date of this amendment, incorporate a revision into the FAA-approved maintenance inspection program which requires inspection, repairs, and replacements, as

necessary, in accordance with Tables 1, 2, and 3 of British Aerospace BAC 1-11 Alert Service Bulletin 51-A-PM5830, Issue 3, dated March 19, 1987. The revision to the maintenance program must include procedures to notify the manufacturer when Structural Significant Items are found cracked or otherwise significantly deteriorated. The inspection thresholds, repetitive intervals and inspection techniques are listed in the service bulletin.

4. Within one year after the effective date of this amendment, or prior to the accumulation of the number of landings listed in the landing threshold indicated in Alert Service Bulletin 51-A-PM5830, Issue 3, dated March 19, 1987, whichever occurs later, thereafter, at intervals not to exceed the number of landings specified in that service bulletin, accomplish the inspection and repair, if necessary, of the Structural Significant Items identified in Tables 1, 2, and 3 of that service bulletin.

5. If cracks are found, prior to further flight:

a. Replace with a serviceable part of the same part number; or

b. Repair in accordance with the Structural Repair Manual, listed in the service bulletin; or

c. Repair in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

7. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspections and/or modifications require by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment amends AD 87-24-06, Amendment 39-5772.

This amendment becomes effective November 3, 1988.

Issued in Seattle, Washington, on
September 16, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 88-22321 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-114-AD; Amdt. 39-6035]

Airworthiness Directives; Fokker Model F-27 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Fokker Model F-27 series airplanes by individual letters. This AD requires a revision to the Limitations Section of the Airplane Flight Manual (AFM) restricting the maximum turbulent air penetration airspeed for certain airplanes, and installation of a placard to this effect near each airspeed indicator. That action was prompted because of a report of improper heat treatment of the wing structure, resulting in a reduction of the strength of the skin splice at Wing Station 7900. This condition, if not corrected, could result in reduced structural capability of the wing.

DATES: Effective October 14, 1988.

This AD was effective earlier to all recipients of Priority Letter AD 88-17-02, dated August 15, 1988.

ADDRESSES: There is no applicable service information.

FOR FURTHER INFORMATION CONTACT:

Mr. Mark Quam, Standardization Branch, ANM-113, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-1565.

SUPPLEMENTARY INFORMATION: On August 15, 1988, the FAA issued Priority Letter AD 88-17-02 applicable to Fokker Model F-27 series airplanes, which requires a revision to the Limitations Section of the Airplane Flight Manual (AFM) restricting the maximum turbulent air penetration airspeed to 165 KIAS (168 KTS CAS) for airplanes operating at weights over 32,000 lbs., and installation of a placard to this effect near each airspeed indicator. That action was prompted because of a report of improper heat

treatment of the wing structure, resulting in a reduction of the strength of the skin splice at Wing Station 7900. This condition, if not corrected, could result in reduced structural capability of the wing.

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, has also issued Netherlands Airworthiness Directive BLA No. 88-55, dated July 29, 1988, which calls for restricting the maximum turbulent air penetration airspeed of Fokker Model F-27 series airplanes operating at weights of more than 32,000 lbs.

The manufacturer has advised FAA that it is preparing service information describing inspection and repair procedures for Wing Station 7900. When this information is available, the FAA may consider further rulemaking action to address it.

Since this condition is likely to exist or develop on airplanes of this same type design registered in the United States, this AD requires a revision to the Limitations Section of Airplane Flight Manual (AFM) restricting the maximum turbulent air penetration airspeed to 165 KIAS (168 KTS CAS) for airplanes operating at weights over 32,000 lbs., and installation of a placard to this effect near each airspeed indicator.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 29, 1979). If this action is subsequently determined to involve a significant/major regulation, a

final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449; January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Fokker: Applies to Model F-27 series airplanes, Serial Numbers 10346 through 10692, certificated in any category. Compliance is required within 24 hours after the effective date of this AD, unless previously accomplished.

To prevent reduced structural capability of the wing, accomplish the following:

A. Incorporate the following into the Limitations Section of the Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD into the AFM:

"For airplanes operating at weights over 32,000 lbs.: Speed Limitation V_B: 165 KIAS (168 KTS CAS)".

B. Install a placard near each airspeed indicator, stating the following:

FOR AIRPLANES OPERATING AT WEIGHTS OVER 32,000 LBS.: SPEED LIMITATION V_B: 165 KIAS (168 KTS CAS).

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

This amendment becomes effective October 14, 1988.

It was effective earlier to all recipients of Priority Letter AD 88-17-02, issued August 15, 1988.

Issued in Seattle, Washington, on
September 16, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 88-22323 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-CE-20-AD; Amdt. 39-6040]

Airworthiness Directives; Mitsubishi Model MU-2B, MU-2B-10, -15, -20, -25, -26, -26A, -30, -35, -36, -36A, -40, and -60 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Mitsubishi Model MU-2B, MU-2B-10, -15, -20, -25, -26, -26A, -30, -35, -36, -36A, -40, and -60 airplanes equipped with any manual electric pitch trim system and/or any autopilot other than Bendix. This amendment requires: (a) The standardization of the operation, location and color of the autopilot/manual electric pitch trim system disconnect/interrupt push button; (b) verification that the system can be disconnected, interrupted or shut off by at least three independent methods; and (c) a "one time" autopilot/manual electric pitch trim switch location and operational check on all MU-2B Series airplanes except those which have complied with AD 88-13-01, June 8, 1988. This amendment continues the effort of providing uniformity in the method of autopilot/manual electric pitch trim disconnection in all Mitsubishi MU-2B airplanes which began as a request from the National Transportation Safety Board (NTSB). Based on a review of a series of fatal MU-2B accidents, the NTSB concluded that pilots were confused in the operation of the disconnect/interrupt switches for the manual electric pitch trim and autopilot systems installed on individual airplanes. Compliance with this AD will preclude pilot confusion and possible loss of the airplane.

DATES:

Effective Date: November 6, 1988.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Bendix/King Certification Bulletin No. CB10, KPN 006-0712-00, or Mitsubishi Kit—Sperry SPZ-200AP Disengagement Drawing, 035A-985006, no revision, applicable to this AD may be obtained from Beech Aircraft Corporation (Licensee for Mitsubishi),

Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; Telephone (316) 681-7279. The information may be examined at the Rules Docket, Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: For Mitsubishi Aircraft International, Inc. (MAI) Type Certificate (TC) A10SW series airplanes manufactured in the U.S.: Robert R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, ACE-130W, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4419. For Mitsubishi Heavy Industries, Inc. (MHI) TC A2PC series airplanes manufactured in Japan: Herbert Peters, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM-130L, FAA, 3229 East Spring Street, Long Beach, California 90806-2425; Telephone (213) 988-5353.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring standardization of the control wheel disconnect switches on certain MU-2B airplanes, was published in the Federal Register (53 FR 28002; July 26, 1988). The NTSB, after reviewing ten fatal accidents involving sudden loss of control of Mitsubishi MU-2B Series airplanes resulting in uncontrolled collisions with the ground/water, requested the FAA to conduct an investigation of the Bendix M-4 Series autopilot systems as installed on the MU-2B Series airplanes and take such appropriate action as deemed necessary to correct any deficiencies identified.

The result of this investigation, with cooperation between MHI, MAI, Beech Aircraft Corporation (licensee for MHI), Bendix Corporation, and the FAA, revealed that there are at least seven different configurations of the disconnect/interrupt switches for the autopilot and electric pitch trim systems. A pilot's familiarity with the autopilot disconnect/interrupt procedures in one MU-2B Model airplane does not guarantee the same familiarity with another MU-2B Model airplane even if owned by the same operator. This situation could lead to pilot confusion and affect his ability to safely operate an MU-2B Series airplane. The same possible confusion exists on MU-2B airplanes equipped with King KFC 300 Automatic Flight Control Systems (AFCS) with Sperry Electric Pitch Trim System, or Sperry SPZ-200 AFCS with MAI Manual/Electric Pitch Trim, or any

other autopilot and/or manual electric pitch trim system. Bendix/King has issued Certification Bulletin No. CB10, KPN 006-0712-00, no revision, and MHI has issued Kit—Sperry SPZ-200AP Disengagement Drawing 035A-985006, no revision, which cover those MU-2B-35 and -36 airplanes, respectively, equipped with an FAA approved installation of the King KFC 300 AFCS with Sperry trim system or the SPZ-200 AFCS with MAI Manual/Electric Pitch Trim System, by providing one combination autopilot/electric pitch trim disconnect switch configuration. This disconnect switch is a red bi-level momentary push-button device with a partial depression which disconnects the autopilot. Continued further depressions of the switch will disarm or interrupt the electric pitch trim system. This switch is located below and outboard of the electric pitch trim switch on the outboard horn of the control yoke. This amendment provides standardization of switch location, color and operation in MU-2B Series airplanes equipped with a King KFC 300 AFCS or a Sperry SPZ-200 AFCS.

To reduce the possible misuse of the autopilot/manual electric pitch trim system, the FAA has prepared an "Accident Prevention Program" flyer which explains the operation of the autopilot/electric pitch trim systems and the reasons the pilot should not assist the autopilot system perform its intended function. This flyer was made available to all MU-2B owner/operators through the Beech Aircraft Corporation.

To verify that all MU-2B Model airplanes equipped with King KFC 300 or Sperry SPZ-200 systems or any other autopilot/manual electric pitch trim systems, are uniform in configuration and function, a "one-time" visual check and functional ground test of the autopilot/manual electric pitch trim is also required, except on those MU-2B model airplanes which have complied with AD 88-13-01, dated June 8, 1988. This visual check will verify that the disconnect switch is red in color and that this switch is located on the outboard horn of the control yoke, and further verifies that the autopilot circuit breaker is properly labeled. This amendment requires a ground test to manually overpower the autopilot and verify that the manual pitch trim wheel stops moving after each of the following actions: (1) The red bilevel disconnect/interrupt push button switch is depressed; (2) the autopilot circuit breaker is pulled; and (3) the autopilot master switch or airplane master switch or radio master switch (as appropriate) is positioned to "OFF."

The FAA has determined that the condition addressed by the service bulletin or kit drawing is an unsafe condition that may exist on products of this type design certificated for operation in the United States. Consequently, this amendment corrects this unsafe condition and is applicable to all Mitsubishi MU-2B Model airplanes equipped with a King KFC 300 AFCS with a Sperry Trim System, or a Sperry SPZ-200 AFCS with MAI Manual/Electric Pitch Trim Systems. This amendment requires the incorporation of Bendix/King Certification Bulletin No. CB10, KPN 006-0712-00, no revision, or MHI Kit—Sperry SPZ-200AP Disengagement Drawing No. 035A-985006, no revision, as appropriate to: (a) Standardize the location, functions and color of the disconnect switch; (b) verify that the system can be disconnected or shut off by at least three independent methods; and (c) on a "one time" basis install and operationally check an autopilot/manual electric pitch trim installation on all MU-2B Series airplanes except those which have complied with AD 88-13-01, dated June 8, 1988.

Interested persons have been afforded an opportunity to comment on the proposal. Two commenters responded. One commenter, Mitsubishi Heavy Industries (MHI), requested that the second sentence of the compliance section in the body of this amendment be modified to read as follows: "To minimize the possibility of confusion in autopilot/manual electric pitch trim disconnect/interrupt switch location and function, accomplish the following;" and also that paragraph (b)(2)(ii)(B)(I) be modified to read as follows: "The autopilot master switch or radio master switch or engage/disengage switch on the autopilot controller (as appropriate) is positioned to "OFF" * * *". The FAA concurs with both of the requested clarifying changes submitted by this commenter.

The other commenter, the National Transportation Safety Board (NTSB), after reviewing the requirements of the NPRM and the historical accident/incident data conclude their comments of the NPRM as follows: "The proposed AD, which affects approximately 204 Mitsubishi MU-2B airplanes, fulfills the intent of Safety Board Safety Recommendations A-86-132 and -134, issued January 9, 1987, as a result of the above accidents/incidents, and continues the effort of providing uniformity in method of autopilot/manual electric pitch trim disconnection in all Mitsubishi MU-2 airplanes. The Safety Board believes that adoption of

the AD as a final rule will prevent accidents in these airplanes as a result of pilot confusion, lack of system disconnect/interrupt redundancy, or malfunction of the autopilot/manual electric pitch trim systems." The FAA concurs with this commenter that this amendment will prevent accidents/incidents in MU-2B Series airplanes as a result of pilot confusion with regards to the disconnect/interrupt procedure for any MU-2B installed autopilot/manual electric pitch trim systems.

Both commenters' recommendations are incorporated in the Final Rule. In addition, since the issuance of the NPRM, it has come to the FAA's attention that Kit—Sperry SPZ-200AP Disengagement Drawing No. 035A-985006, no revision, is the top kit drawing which incorporates kit installation Drawing No. 035A-985007. Therefore, since the substitution of drawing reference 035A-985006, in lieu of 035A-985007 does not impact the content of the AD, it is hereby incorporated without further notice.

Accordingly, the above changes have been incorporated into this final rule along with minor editorial clarifications.

There were no comments on the FAA's determination of cost. The FAA has determined there are approximately 204 airplanes affected by the proposed AD. Five (5) of these airplanes will require modifications as described in this AD at an estimated cost of \$400 per airplane. The remaining 199 airplanes will require only the inspection specified by this AD estimated to be one (1) hour at a cost of \$40 per hour. The cost of complying with this AD is estimated to be \$9,960 to the private sector. The cost of compliance with this AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of

small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Mitsubishi: Applies to Model MU-2B, MU-2B-10, -15, -20, -25, -26, -26A, -30, -35, -36, -36A, -40, and -60 (all serial numbers, with or without the SA suffix) airplanes certificated in any category, equipped with any manual electric pitch trim system and/or any autopilot other than Bendix.

Note 1. The serial number of airplanes assembled in the United States by Mitsubishi Aircraft Industries (MAI) under Type Certificate (TC) A10SW are suffixed by "SA." The serial numbers of airplanes manufactured in Japan by Mitsubishi Heavy Industries, Inc. (MHI) under TC A2PC have no suffix. Compliance: Within the next 200 flight hours or five (5) calendar months, whichever occurs first, unless already accomplished.

To minimize the possibility of confusion in autopilot/manual electric pitch trim disconnect/interrupt switch location and function, accomplish the following:

(a) Modify the control yoke in the affected model airplanes as follows:

(1) For MU-2B-35 model airplanes equipped with a King KFC 300 Automatic Flight Control System (AFCS) and a Sperry Manual/Electric Pitch Trim System, in accordance with Bendix/King Certification Bulletin No. CB10, KPN 006-0712-00, no revision, or

(2) For MU-2B-36 model airplanes equipped with a Sperry SPZ-200 AFCS and a MAI Manual/Electric Pitch Trim System, in accordance with MHI Kit—Sperry SPZ-200AP Disengagement Drawing, 035A-985006, no revision.

(b) Prior to returning the airplane to service, accomplish a visual configuration check and a system functional ground test on all MU-2B, MU-2B-10, -15, -20, -25, -26, -

26A, -30, -35, -36, -36A, -40, and -60 airplanes, except those airplanes which have complied with AD 88-13-01, dated June 8, 1988, as follows:

- (1) Visually verify that:
 - (i) The autopilot disconnect and trim disconnect/interrupt functions are combined on one button mounted on the outboard control wheel grip, and is so oriented that it is easily activated by the pilot/copilot.
 - (ii) The autopilot disconnect and trim disconnect/interrupt button is properly and legibly labeled to indicate functions.
 - (iii) The button is red in color.
 - (iv) There are no other red buttons nearby that could be mistaken for the autopilot disconnect.

(v) The autopilot circuit breaker is properly labeled.

(2) Perform an operational check of the autopilot disconnect and trim disconnect/interrupt button to confirm its correct functioning by disconnecting/interrupting the autopilot and the trim systems, as follows:

- (i) With the manual electric pitch trim system armed, press the trim button to cause the manual pitch trim wheel to rotate, then verify that after each of the following operations is performed, the manual pitch trim wheel stops moving when:
 - (A) The disconnect/interrupt switch is fully depressed;
 - (B) The master electric power switch is positioned to "OFF";
 - (C) The radio master switch is positioned to "OFF" (if installed and so configured);
 - (D) The electric trim circuit breaker is pulled. (On some MU-2B airplanes without an electric trim circuit breaker, the autopilot circuit breaker/switch is used to disconnect the system in lieu of the electric trim circuit breaker.)

Note 2. It is very important to verify that the manual pitch trim wheel stops moving after each of the above operations of paragraph (b)(2)(i).

(ii) With the autopilot system engaged, verify:

(A) That the autopilot system can be overpowered by pushing or pulling on the control yoke; and,

(B) That, while overpowering the autopilot, the manual pitch trim wheel stops moving and the autopilot disconnects when each of the following operations is performed:

(I) The disconnect/interrupt switch is depressed;

(II) The autopilot master switch or the radio master switch or the engage/disengage switch on the autopilot controller (as appropriate), is positioned to "OFF" (On some MU-2B airplanes not equipped with an autopilot master switch beside the controller, the radio master switch must be used to disconnect the system in lieu of the autopilot master switch.);

(III) The autopilot circuit breaker is pulled.

Note 3. It is very important that the manual pitch trim wheel stops moving after each of these operations.

(3) If the result of any one of the above visual verifications or operational checks are not as specified, prior to further flight, contact the Manager, Wichita Aircraft Certification Office, ACE-115W, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita,

Kansas 67209; telephone (316) 946-4400, for disposition of the discrepancy.

(c) In addition to the maintenance record entry required by FAR 91.173, enter a statement showing successful completion of paragraph (b) of this AD listing the autopilot and/or manual electric trim system installed.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent method of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, ACE-115W, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation (Licensee to Mitsubishi), P.O. Box 85, Wichita, Kansas 67201; Telephone (316) 681-7279; or may examine the documents at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on November 6, 1988.

Issued in Kansas City, Missouri, on September 22, 1988.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-22367 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-CE-27-AD; Amdt. 39-6026]

Airworthiness Directives; Partenavia Costruzione Aeronautiche S.p.A. P 68 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Partenavia Costruzione Aeronautiche S.p.A. P 68 Series airplanes, which requires inspection and modification, or replacement of the stabilator, and stabilator trim tabs. Instabilities have occurred in the pitch axis resulting in stop-to-stop excursions of the flight controls. These were determined to be the result of insufficient stiffness of the trim tab. This condition could lead to loss of control or structural failure. The actions described in this AD will preclude this structural failure or loss of control.

DATE: Effective Date: October 27, 1988.

Compliance: As described in the body of the AD.

ADDRESSES: Partenavia Costruzione Aeronautiche, S.p.A., Service Bulletin

No. 73, Revision 1, dated July 11, 1988, applicable to this AD may be obtained from Partenavia Costruzione Aeronautiche, S.p.A., 80026 Casoria (NA) Via G. Pascoli No. 7, Italy; telephone (081) 7596311. This information may also be examined at the Rules Docket, FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: John P. Dow, Sr., FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426-6932.

SUPPLEMENTARY INFORMATION: Two occurrences of pitch instability have occurred on Partenavia P 68 Series airplanes registered in the United Kingdom (UK). The manufacturer has determined that these occurrences were caused by insufficient stiffness of the trim tab structure. Flexibility in the trim tab or pitch control surface system can alter the aerodynamic characteristics of the control surface resulting in an unstable aerodynamic condition. As a result, Partenavia has issued Service Bulletin Number 73, Revision 1, dated July 11, 1988, to repair and modify the stabilator, and stabilator trim tabs. The FAA has reviewed the action surrounding this condition and the remedial measures taken by the manufacturer and the RAI and has concluded that the modification or replacement of the stabilator, and stabilator trim tabs will prevent pitch instability induced by trim tab flexibility.

The Registro Aeronautico Italiano (RAI) has also issued RAI telegraphic AD No. 88-10 mandating compliance with the actions of the Partenavia Service Bulletin. On airplanes operated under Italian registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of RAI combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Partenavia Costruzione Aeronautiche, S.p.A., Service Bulletin No. 73, Revision 1, dated July 11, 1988, and the mandatory classification of this Service Bulletin by the RAI. Based on the foregoing, the FAA has determined that the condition described herein is an

unsafe condition that may exist or develop on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring inspection and modification, or replacement of the stabilator and stabilator trim tabs on certain Partenavia Costruzione Aeronautiche S.p.A., P 68 series airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

§ 39.13 [Amended]

Partenavia Costruzione Aeronautiche, S.P.A.:
Applies to P 68 Series (Serial Numbers 1 through 381) airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To preclude pitch instability, accomplish the following:

(a) Remove, visually inspect, and replace or modify as required, the left and right stabilator trim tabs, and, as required modify the stabilator rear spar as described in Paragraph 2 of Partenavia Service Bulletin No. 73, Revision 1, dated July 11, 1988.

(b) If the inspection specified in Paragraph (a) of this AD shows damage to either trim tab, prior to further flight inspect for damage and repair, as required, the stabilator, control system, attachments, stops, rigging, and controls.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Brussels Aircraft Certification Office (AEU-100), c/o American Embassy, B-1000, Brussels, Belgium; telephone 32 2 513.38.30, extension 2710.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Partenavia Costruzione Aeronautiche, S.p.A., 80026 Casoria (NA) Via G. Pascoli No. 7, Italy; telephone (081) 7596311; or may examine these documents at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on October 27, 1988.

Issued in Kansas City, Missouri, on September 13, 1988.

Don C. Jacobsen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-22370 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-CE-18-AD; Amdt. 39-6039]

Airworthiness Directives; Piper PA-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper PA-60 series airplanes as modified by Machen, Inc., Supplement Type Certificate (STC) SA980NM which pertains to the

installation of AVCO Lycoming Models TIO- and LTIO-540-J2BD engines. The AD requires repetitive inspections and replacement as necessary of the exhaust system components and engine oil lines, including the turbocharger oil supply line and its routing. A report of an inflight fire has been received that indicates fire resulted from deterioration of the engine oil lines and exhaust system components. If not corrected, this condition could result in inflight fires and subsequent loss of the airplane.

DATES: Effective date: November 6, 1988.

Compliance: As prescribed in the body of this AD.

ADDRESSES: Machen, Inc. Service Bulletins (SB) No. 66-002, dated September 22, 1981; SB 66-011, dated January 22, 1984; SB 66-018, dated June 5, 1987, and SB 66-019, dated January, 1988, applicable to this AD may be obtained from Machen, Inc., South 3608 Davison Boulevard, Spokane, Washington 99204; telephone number (509) 838-5326. A copy of this information may also be examined at the Rules Docket as the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 88-CE-18-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Mr. William A. Swope, Aerospace Engineer, ANM-191S, FAA, Special Certification Section, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-1988.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation regulations to include an AD requiring regular exhaust system inspections on certain Piper PA-60 series airplanes was published in July 19, 1988, in the Federal Register (53 FR 27176). The proposal resulted from a report of an inflight engine fire caused by leaking turbocharger lubrication oil impinging on the exhaust system of a Piper PA-60 series Aerostar modified by Machen, Inc., STC No. SA980NM which involves the installation of AVCO Lycoming Models TIO- and LTIO-540-J2BD engines. The subsequent investigation indicated the oil leak resulted from oil line deterioration caused by the flexible hose being in contact with the exhaust system.

Machen, Inc. has issued SB 66-018, which sets forth the procedures for repetitive inspections and re-routing (if necessary) of the turbocharger oil line and inspection of the exhaust system.

SB 66-018 is based on accomplishment of Machen, Inc. SB 66-002 and SB 66-011 that give instructions for installation of clamp tab assemblies. Machen, Inc. has also issued SB 66-019 which replaces the exhaust system components affected by SB 66-018 and eliminated the requirement for repetitive inspections of the exhaust system.

Since this condition is likely to exist or develop in other Piper PA-60 series airplanes, modified per Machen, Inc. STC SA980NM, the FAA proposed an AD which would require inspection and replacement, if necessary, of the exhaust system components and engine oil lines of these airplanes, in accordance with the SB's previously mentioned.

Interested persons have been afforded an opportunity to comment on the proposal. No comments were received. Accordingly, the proposal was adopted without change except for minor editorial corrections.

The FAA has determined there are approximately 31 airplanes affected by the proposed AD. It will take approximately four manhours per airplane to accomplish the required actions, at an average labor cost of \$40 per manhour, for a cost per airplane of \$160. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be \$4,960 for each recurring fleet-wide inspection. The cost of compliance with the AD is so small that it will not involve a significant financial impact on any small entities operating these airplanes.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follow:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Piper: Applies to PA-60 series (all serial numbers) airplanes certificated in any category modified per Machen, Inc., Supplemental Type Certification (STC) No. SA980NM.

Note.—STC No. SA980NM pertains to installation of AVCO Lycoming Model T10- and LT10-540-J2BD engines.

Compliance: Required as indicated, unless previously accomplished.

To prevent a possible inflight engine fire, accomplish the following:

(a) Within the next 50 hours time-in-service, after the effective date of this AD, and thereafter at every 100 hours time-in-service, inspect, and replace, as necessary, the exhaust systems on both engines in accordance with Machen, Inc. Service Bulletin (SB) No. 66-018, dated June 5, 1987.

(b) The repetitive inspections specified in paragraph (a) are no longer required when the exhaust system has been modified in accordance with Machen, Inc. SB 66-019, dated January 8, 1988.

(c) Within the next 50 hours time-in-service, after the effective date of this AD, and thereafter at every 100 hours time-in-service, inspect, and replace as necessary the oil lines on both engines in accordance with Machen, Inc. SB 66-018, dated June 5, 1987.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Modification Branch, ANM-190S, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-88966, Seattle, Washington 98168.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Machen, Inc., South 3608 Davison Boulevard, Spokane, Washington 99204 or may examine these documents at the Office of the Assistant Chief Counsel, Room 1558, FAA, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on November 6, 1988.

Issued in Kansas City, Missouri, on September 22, 1988.

Barry D. Clements,
Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 88-22369 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-CE-13-AD; Amdt. 39-6042]

Airworthiness Directives; Piper Models PA-23, PA-23-160, PA-23-250, PA-23-235, PA-E23-250 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to all Piper PA-23 series airplanes, which requires periodic inspection and repair, as necessary, of the fuel vent/drain lines, the thermos type fuel cell caps, and the fuel filler compartment covers. Incidents of engine power loss and accidents due to water contamination of the fuel system, caused by defective fuel filler caps and blocked fuel cell vent/drain lines, have occurred on these airplanes. The actions specified in this AD will reduce the possibility of water contamination in the fuel system and resultant engine stoppage due to these conditions.

DATES:

Effective Date: November 6, 1988.

Compliance: As indicated in the body of the AD.

ADDRESSES: Piper Aircraft Corporation Service Bulletin No. 340, dated May 24, 1971, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567-4366. This information may also be examined in the Rules Docket, Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Goodall, Aerospace Engineer, Propulsion Branch, ACE-140A, Atlanta Aircraft Certification Office, FAA, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-3810.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD which would require periodic inspection and repair, as necessary, of the fuel vent/drain lines, the thermos type fuel cell caps, and the fuel filler

compartment covers on all Piper PA-23 series airplanes was published in the Federal Register on May 31, 1988 (53 FR 19804).

The proposal was prompted by a report from the National Transportation Safety Board indicating that since 1975, Piper Model PA-23 Apache airplanes have been involved in fourteen accidents and a Piper Model PA-23 Aztec airplane has been involved in one accident, all of which occurred after water in the fuel system led to engine stoppage. Apache airplanes have been in twenty-three other accidents and Aztec airplanes in seventeen other accidents all involving engine stoppage wherein the reason for engine stoppage was not determined but may have been caused by water in the fuel. At least twenty-two fatalities and four serious injuries resulted from these accidents. Investigation has revealed that, due to the recessed design of the fuel filler compartments, blocked fuel cell vent/drain lines will allow water to collect in the fuel filler compartment and that defective fuel cap seals will allow water to enter the fuel cell. Once water gets into the fuel cell, it is very difficult to completely remove the trapped water during ground inspection. On May 24, 1971, Piper Aircraft Corporation released Service Bulletin No. 340 entitled "Fuel Cell Vent/Drain Lines Inspection" which recommends periodic inspection procedures for the fuel cell caps and fuel filler compartment access covers. These periodic inspections and repairs should reduce the possibility of precipitation and/or wash water from entering the fuel filler compartment and leaking into the fuel cell. However, in light of the number of accidents involving water in the fuel system, the FAA determined that in many instances these inspections are not being performed and consequently, should be made mandatory.

Accordingly, since the condition described is likely to exist or develop in other Piper PA-23 series airplanes of the same type design, the FAA proposed an AD, applicable to all Piper PA-23 series airplanes, which would require inspection of the vent/drain lines to ensure they are not obstructed or deteriorated, and inspection of the thermos type fuel cell caps and the fuel filler compartment access covers for sealing integrity. These inspections, specified in Piper Service Bulletin No. 340, were proposed regardless of whether or not an affected airplane has anti-icing fuel cell vents installed. Interested persons have been afforded an opportunity to participate in the making of this amendment. There were

no comments or objections on the FAA determination of the related cost to the public and only two commenters responded to the proposal. One commenter was in full agreement with the proposal. The other commenter objected to the compliance time that requires these inspections within the next 60 days after the effective date of this AD and at intervals not to exceed 12 calendar months thereafter. The commenter suggested compliance at the next 100-hour inspection or at the next annual inspection, whichever occurs, first, and at each 100-hour or annual inspection thereafter. Due consideration has been given to this comment. However, after careful review of the available data, the FAA has concluded that it would not be prudent to wait until 100 hours or one year to perform the first inspection required by this AD since it is possible that the last inspection may have occurred several years ago or maybe never occurred at all. Therefore, due to the nature of the problem, the FAA has determined that the initial and repetitive inspection intervals should be based on calendar time rather than operating hours as described in Piper Service Bulletin No. 340. Intervals not to exceed 12 calendar months after the initial inspection is considered adequate. Accordingly, the proposal is adopted with only minor editorial changes.

The FAA has determined there are approximately 7,000 airplanes affected by this AD. The cost of implementing the AD is estimated to be \$50 per airplane per inspection. The total cost is estimated to be \$3,150,000 to the private sector over the anticipated life of the airplane fleet. The cost of complying with this AD will not have a significant financial impact, on any small entities owning affected airplanes.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the

criteria of the Regulatory Flexibility Act. A copy of the regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

Piper: Applies to all Model PA-23, PA-23-160, PA-23-250, PA-23-235 and PA-E23-250 (all serial numbers) airplanes certificated in any category.

Compliance: Required within the next 60 days after the effective date of this AD and at intervals not to exceed 12 calendar months thereafter, unless already accomplished.

To reduce the possibility of precipitation and/or wash water from entering the fuel filler compartment and leaking into the fuel cell resulting in engine failure, accomplish the following:

(a) Inspect the fuel vent/drain lines, the thermos type fuel caps, and the fuel filler compartment covers on both main fuel cell systems and, if installed, both auxiliary fuel cell systems in accordance with the instructions of Piper Service Bulletin No. 340, dated May 24, 1971.

(b) If any defects are found, correct them before further flight.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, ACE-115A, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on November 6, 1988.

Issued in Kansas City, Missouri, on September 22, 1988.

Barry D. Clements

Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 88-22368 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-ANE-45; Amendment 39-6031]

Airworthiness Directives; Rolls Royce plc (R-R) (Formerly Rolls-Royce Limited) Dart Mks. 506, 510, 511, 514, 525, 526, 527, 528, 529, 531, 532, and 542 Series Turboprop Engines and All Variants

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) which imposed reduced life limits on certain high pressure (HP) and low pressure (LP) impellers on certain R-R Dart turboprop engines. The amendment supersedes AD 73-21-04, Amendment 39-1734 (38 FR 27819), by further reducing life limits on certain HP impellers, and restating for clarity existing AD requirements with respect to HP and LP impeller life limits. The AD is needed to prevent low cycle fatigue (LCF) failure to certain HP impellers by imposing a new reduced life limit on affected HP impellers.

DATE: Effective—November 6, 1988.

Compliance: As required in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Marc J. Bouthillier, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7085.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD which supersedes Amendment 39-1734 (38 FR 27819), AD 73-21-04, was published in the *Federal Register* on May 31, 1988 (53 FR 19802).

The proposal was prompted by an HP impeller failure resulting from LCF cracking. A stress analysis and a review of service experience has confirmed the need to further reduce the life limit on certain HP impellers. The FAA has also determined the need to restate for clarity existing HP and LP impeller life limits which remain unchanged.

Therefore, this AD supersedes Amendment 39-1734 by imposing reduced life limits for certain HP impellers, and restating existing HP and LP impeller life limits for clarity.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received. The first comment suggested that Note (2) of compliance paragraph (a) be clarified, as it is difficult to interpret. The FAA agrees, and the commenter's suggested wording is adopted. A second comment requested that additional models be included in the AD. The FAA does not agree, as these models are not affected by the requirements of this AD. Also, minor editorial changes were made to the compliance section for consistency in wording. Accordingly, the remainder of the proposal is adopted without change.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this regulation involves 784 engines, with approximately 100 engines affected by the new reduced HP impeller life limits. The approximate cost for those 100 engines is \$8,400 per engine. The remaining 684 engines are covered by already existing AD requirements, and therefore no additional costs are incurred. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) is amending Part

39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD) which supersedes AD 73-21-04, Amendment 39-1734 (38 FR 27819) as follows:

Rolls-Royce plc: Applies to Rolls-Royce plc (R-R) (Formerly Rolls-Royce Limited) Dart Mks. 506, 510, 511, 514, 525, 526, 527, 528, 529, 531, 532, and 542 series turboprop engines and all variants.

Compliance is required as indicated, unless already accomplished.

To prevent low cycle fatigue failure of high pressure (HP) impellers and low pressure (LP) impellers, accomplish the following:

(a) Remove from service HP impellers installed in Dart Mks. 506, 510, 511, 514, and all variants, in accordance with the following schedule:

(1) HP impellers to Mod 844 standard which have accumulated 8,000 or more total flights since new on the effective date of this AD, within the next 400 flights from the effective date of this AD, or within the next 13 calendar months from the effective date of this AD, whichever comes later.

(2) HP impellers to Mod 1455 standard which have accumulated 8,600 or more total flights since new on the effective date of this AD, within the next 400 flights from the effective date of this AD, or within the next 12 calendar months from the effective date of this AD, whichever comes later.

(3) HP impellers to Mod 844 standard which have accumulated less than 8,000 total flights since new on the effective date of this AD, at or prior to accumulating 8,400 total flights since new, or within 12 calendar months from the effective date on this AD, whichever comes later.

(4) HP impellers to Mod 1455 standard which have accumulated less than 8,600 total flights since new on the effective date of this AD, at or prior to accumulating 9,000 total flights since new, or within 12 calendar months from the effective date of this AD, whichever comes later.

Notes.—(1) Total flights since new is defined as the total number of flights accumulated by the part since first installation in an engine. This total includes all Mod standards the part has operated under.

(2) This action establishes a new Overhaul Manual Chapter 5 life limit for HP impellers, as noted in items (a)(3) and (a)(4) above.

(3) Reference R-R Service Bulletin (SB) DA72-496, dated June 1986.

(b) Remove from service HP impellers installed in Dart Mks. 525, 526, 527, 528, 529, 531, 532, 542, and all variants, on or before the life limits in the following schedule:

LIFE LIMIT IN NUMBER OF FLIGHTS

Dart Mk.	Pre-mod 797	Mod 797 open bore processed	Mod 797 pre-mod 1455	Mod 1455	Mod 1475
525 thru 529	4,500	11,000	14,000	NC	NC
531 and 532	4,500	11,000	14,000	NC	NC
542	NA	NA	12,000	16,000 (Since incorp. of Mod 1455)	14,500

NA—Model not applicable to specific impeller.

NC—Life limits not covered by this AD. Information relating to these impellers is contained in the manufacturer's appropriate overhaul manual.

Note.—The above noted HP impeller life limits were published in AD 73-21-04, Amendment 39-1734 (38 FR 27819), and have not changed. This section is only intended to reprint for clarity, already existing AD requirements with respect to current R-R SB information.

(c) Remove from service LP impellers installed in Dart Mk. 506, 510, 511, 514, 525, 526, 527, 528, 529, 531, 532, 542, and all variants, on or before the life limits in the following schedule:

LIFE LIMIT IN NUMBER OF FLIGHTS

Dart Mk.	Mod 797 open bore processed	Mod 797 pre-mod 1455	Mod 1455
506.....	10,500	11,250	11,250
510.....	10,500	11,250	11,250
511.....	10,500	11,250	11,250
514.....	10,500	11,250	11,250
525 thru			
529.....	9,000	9,000	9,000
531 and			
532.....	9,000	9,000	9,000
542.....	NA	9,000	9,000

NA—Model not applicable to specific impeller.

Notes.—(1) LP impellers to Mod 1455 Part 1 standard (manufactured by R-R to this standard) are not affected by this AD. Life limits for this part are quoted in the overhaul manual, Chapter 5, "Time Limits".

(2) The above noted LP impeller life limits were published in AD 73-21-04, Amendment 39-1734 (38 FR 27819), and have not changed. This AD, with respect to LP impeller life limits, is only intended to reprint for clarity, already existing AD requirements with respect to current R-R SB information.

(3) Rolls-Royce Dart SB 72-463 also pertains to LP impeller life limits.

(d) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

(f) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, may adjust the compliance schedules specified in this AD.

This amendment supersedes Amendment 39-1734 (38 FR 27819), AD 73-21-04.

This amendment becomes effective on November 6, 1988.

Issued in Burlington, Massachusetts, on September 16, 1988.

Jack A. Sain,

Manager, Engine & Propeller Directorate,
Aircraft Certification Service.

[FR Doc. 88-22320 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-62-AD; Amdt. 39-6036]

Airworthiness Directives; Short Brothers Model SD3-30 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to Shorts Model SD3-30 series airplanes, which currently requires, among other things, inspection of the stabilizer-to-fuselage attachment pins for corrosion or wear, and replacement, if necessary. This amendment provides additional instructions for one of the inspections listed in the previous AD, clarifies the area to be inspected, and changes the repetitive inspection intervals for that inspection. This action is prompted by reports of corrosion and/or wear in the horizontal stabilizer-to-fuselage attachment fittings, bushings, and pins. This condition, if not corrected, could compromise the strength of the horizontal stabilizer fuselage assembly.

EFFECTIVE DATE: November 3, 1988.

ADDRESSES: The applicable service information may be obtained from Short Brothers PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft

Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113, telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by revising AD 84-07-06, Amendment 39-4843 (49 FR 14500; April 12, 1984), applicable to Shorts Model SD3-30 series airplanes, to require repetitive inspections of the horizontal stabilizer (tailplane)-to-fuselage attachment fittings, pins, and bushings for corrosion and/or wear, and replacement, if necessary, was published in the *Federal Register* on June 24, 1988 (53 FR 23772).

Interested persons have been afforded an opportunity to participate in the making of this amendment.

No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 58 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$23,200.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation

is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, effect on a substantial number of small entities, because of the minimal cost per airplane (\$400). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects—14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising paragraph D. of AD 84-07-06, Amendment 39-4843 (49 FR 14500; April 12, 1984), as follows:

D. To detect excessive corrosion or wear in the horizontal stabilizer (tailplane)-to-fuselage attachment fittings, pins, and bushings: Within 90 days after the effective date of this amendment, perform an inspection for corrosion or wear of the horizontal stabilizer (tailplane)-to-fuselage fittings, pins and bushings, in accordance with Short Brothers PLC Service Bulletin SD3-55-16, Revision 3, dated November 1987. For airplanes with less than 4,800 hours and that are less than 2 years old, accomplishment may be deferred until reaching 4,800 hours or 2 years of age, whichever occurs first. Any parts found to be worn or corroded must be replaced prior to further flight, in accordance with the service bulletin.

1. If the pins are not replaced by new pins, and if there is no corrosion found on the attachment fittings, repeat this inspection at intervals not to exceed 1,200 flight hours or 6 months from the previous inspection, whichever occurs sooner.

2. If all the pins on one side are replaced by new pins, repeat the inspection on that side within the next 4,800 flight hours or 2 years from the replacement, whichever occurs sooner. Thereafter, inspect at intervals not to exceed 2,400 flight hours or 1 year from the previous inspection, whichever occurs sooner.

All persons affected by this directive who have not already received the appropriate service documents from the

manufacturer may obtain copies upon request to Short Brothers PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. These documents may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment amends AD 84-07-06, Amendment 39-4843.

This Amendment becomes effective November 3, 1988.

Issued in Seattle, Washington, on September 16, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-22322 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-AWP-8]

Establishment of Barking Sands, HI, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a 700' transition area at Barking Sands, Hawaii. This transition area will provide controlled airspace for aircraft executing instrument approach procedures to the Barking Sands PMRF Airport, Kauai, Hawaii. This rule also corrects the coordinates of the Barking Sands TACAN.

EFFECTIVE DATE: 0901 u.t.c., November 17, 1988.

FOR FURTHER INFORMATION CONTACT: Daniel K. Martin, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-1180.

SUPPLEMENTARY INFORMATION:

History

On July 5, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700' AGL transition area at Barking Sands, Hawaii (53 FR 25175). This transition area will provide controlled airspace for aircraft executing instrument approach procedures to the Barking Sands PMRF Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written

comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a 700' AGL transition area at Barking Sands, Hawaii. This transition area provides controlled airspace to the Barking Sands PMRF Airport, Kauai, Hawaii.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Barking Sands, HI [NEW]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Barking Sands PMRF Airport (lat. 22°01'18"N., long. 159°47'12"W.); within 2 miles each side of the Barking Sands TACAN (lat. 22°02'26"N., long. 159°47'15"W.) 173° radial extending from the 5-mile radius area to 8.5 miles south of the Barking Sands PMRF Airport; and within 2 miles each side of the

Barking Sands TACAN 341° radial extending from the 5-mile radius area to 8.5 miles north of the Barking Sands PMRF Airport.

Issued in Los Angeles, California on September 19, 1988.

Jacqueline L. Smith,

Manager, Air Traffic Division.

[FR Doc. 88-22366 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's interim regulation on Payment of Premiums, which was published on June 30, 1988 (53 FR 24906). Appendix B to the interim regulation contains a table setting forth the interest rates that are required by statute to be used in valuing a plan's vested benefits for purposes of determining the amount of the premium due to the PBGC. This amendment adds to that table the interest rates applicable to plan years beginning in June through September 1988.

EFFECTIVE DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Senior Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; telephone 202-778-8523 (202-778-8859 for TTY and TDD). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 9331 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, amended section 4006 of the Employee Retirement Income Security Act of 1974 ("ERISA") to establish a two-part premium structure for single-employer plans, i.e., a flat rate per capita assessment and a variable rate assessment based on a plan's unfunded vested benefits, effective for plan years beginning on or after January 1, 1988. Under amended ERISA section 4006(a)(3)(E)(iii)(II), the interest rate used in valuing a plan's vested benefits for purposes of determining the amount of the plan's unfunded vested benefits must equal 80% of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

The Pension Benefit Guaranty Corporation's (the "PBGC's") interim regulation on Payment of Premiums (53

FR 24906 (June 30, 1988)) implements these new premium rules. Under § 2610.23(b)(1) of the regulation, the interest rate for valuing vested benefits is determined by reference to the annual yield for 30-year Treasury constant maturities as reported in Federal Reserve Statistical Release G.13 and H.15. The required interest rate for a given "premium payment year" (the plan year for which the premium is being paid) is 80% of this rate for the calendar month preceding the calendar month in which the premium payment year begins. As a convenience, the PBGC established as Appendix B to the interim regulation containing a table setting forth the required interest rates for premium payment years beginning in January 1988 and thereafter.

The PBGC is amending Appendix B to add the required interest rates for premium payment years beginning in June, July, August or September, 1988. The PBGC will, at least initially, be updating these rates on a monthly basis by publishing the rate applicable to premium payment years beginning in a particular month on or about the fifteenth day of that month. However, the PBGC intends to solicit public comment, in a forthcoming notice of proposed rulemaking on the premium regulation, as to the frequency with which it should update these rates.

Finally, Appendix A ("Late Payment Interest Charges") to the interim regulation contains a 9% interest rate entry for the period January 1, 1988, through March 31, 1988. The entry for this time period should be 11%. The PBGC is correcting this typographical error in Appendix A.

Appendix B to the interim regulation does not prescribe the required interest rates for valuing vested benefits. These rates are prescribed by section 4006(a)(3)(E)(iii)(II) of ERISA and § 2610.23(b)(1) of the regulation. The purpose of Appendix B is merely to collect and to republish these rates in a convenient place. Thus, the interest rates in Appendix B are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. See 5 U.S.C. 553(b). For these same reasons, the PBGC also finds that good cause exists for making these amendments effective immediately. See 5 U.S.C. 553(b)(3).

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of \$100 million or more; nor create a major increase in costs or prices for consumers, individual

industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2610

Employee Benefit Plans, Pension insurance, Pensions.

In consideration of the foregoing, Appendix A to Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, is hereby corrected, and Appendix B thereto is hereby amended, as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for Part 2610 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307, as amended by secs. 403(1), 105, 402(a)(3), 403(b), Pub.L. 96-364, 94 Stat. 1208, 1302, 1264, 1298, 1300; sec. 11005, Pub. L. 99-272, 100 Stat. 82, 240, and by sec. 9331, Pub. L. 100-203, 101 Stat. 1330.

Appendix A to Part 2610—[Corrected]

2. In Appendix A to Part 2610, the entry of "9%" for the time period January 1, 1988, through March 31, 1988, is corrected to read "11%".

3. Appendix B to Part 2610 is amended by adding to the table of interest rates therein new entries to read as follows. The explanatory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates for Valuing Vested Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate ¹
June 1988.....	7.38
July 1988.....	7.20
Aug. 1988.....	7.31
Sept. 1988.....	7.46

¹ The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15, for the calendar month preceding the calendar month in which the premium payment year begins.

Issued in Washington, DC., on this 23rd day of September 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-22326 Filed 9-28-88; 8:45 am]

BILLING CODE 7708-01-M

POSTAL SERVICE

39 CFR Part 111

Exclusion of "Plus" Issues from Second-Class Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule adopts an implementing regulation for a temporary mail classification change concerning the eligibility of "Plus" issues for second-class mail privileges. This regulation provides that an issue of a publication that meets the criteria of the temporary classification provision must separately qualify for second-class mail eligibility whether or not it is distributed on the same day as another issue of the parent publication, if it is published more frequently than once each month.

EFFECTIVE DATE: October 9, 1988.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268-5199.

SUPPLEMENTARY INFORMATION: On June 17, 1988, the Postal Service, pursuant to 39 U.S.C. 3623, filed a request with the Postal Rate Commission for a change in the Domestic Mail Classification Schedule that would prevent the abuse of second-class mail privileges through the mailing of "Plus" issues of publications. The proposed change was designed to remove any remaining legal question about the Postal Service's authority to enforce the requirement that "Plus" issues independently satisfy second-class eligibility requirements when they are not published on the same day as another issue of the parent publication. For further information concerning such "Plus" issues, including the reasons why the practice of "Plus" issue publishers are identified for specific regulation, see generally the Postal Service's interim rule, 51 FR 25525 (July 15, 1986), and final rule, 51 FR 33610 (September 22, 1986), adopting current Domestic Mail Manual (DMM) 425.226, and the Opinion and Recommended Decision of the Postal Rate Commission in PRC Docket No. C85-1 (January 24, 1986).

The Postal Service's classification request was filed because a decision in *Combined Communications v. USPS*, Civ. No. 3-87-0214 (M.D. Tenn. May 27, 1988), brought into question the validity

of the Postal Service's current regulation requiring that certain "Plus" issues independently qualify for second-class eligibility, DMM 425.226. The mail classification change requested by the Postal Service would amend section 200.0123 of the Domestic Mail Classification Schedule to read as follows:

For purposes of determining second-class eligibility and postage under Classification Schedule 200, an "issue" of a newspaper or other periodical shall be deemed to be a separate publication if:

a. It is published at a regular frequency, either on the same day as another regular issue of the same publication, or at such other frequency as prescribed by the Postal Service by regulation, and

b. It is distributed to more than (i) 10 percent nonsubscribers, or (ii) twice as many nonsubscribers as the other issue on that same day, or if no other issue on that day, any other issue distributed at the same frequency, whichever is greater.

Such separate publications must independently meet the qualifications in section 200.0101 through 200.0109, or 200.0110.

The Commission assigned the case Docket No. MC88-2 and published a notice in the *Federal Register* on June 28, 1988 (53 FR 24388) describing the Postal Service's request and offering interested parties an opportunity to participate in the Commission's proceedings on this request. Pursuant to 39 U.S.C. 3641(e), the Postal Service may implement a proposed classification change, on a temporary basis, if the Commission does not issue a recommended decision on the Postal Service's request within 90 days of the filing of the request. In anticipation of the possibility that the Commission would not complete its proceedings and issue a recommended decision within 90 days, the Postal Service published a proposed rule for the implementation of the classification change, on a temporary basis, if needed, 53 FR 29483-4 (August 5, 1988) (extension of comment period granted, 53 FR 32406 (August 25, 1988)). The proposed rule would add section 425.227 to the DMM to adopt a frequency of publication of more than once a month as a yardstick for "Plus" issues that, nominally, are not published on the same day as another issue of the same publication.

The Postal Service received three comments on the proposed rule, two from newspaper associations and one from the newspapers involved in the *Combined Communications* case. The first commenter criticized the Postal

Service's classification proposal as inadequate to provide permanent relief from the problems related to "Plus" issues. The commenter also expressed the opinion that there is "no compelling need" for the Postal Service to proceed with a temporary classification change, based upon its view that only a few "Plus" publications would be affected. Lastly, the commenter criticized the proposed regulation, stating that it would produce "a meaningless definition" of "Plus" issues when employed in conjunction with the regulation on "same day" "Plus" issues in DMM 425.225.

The Postal Service recognizes that the proposed rule was designed to implement a temporary change in mail classification while its proposal for a permanent classification change is pending before the Postal Rate Commission. However, the Postal Service believes that there is a need to act quickly so as to inhibit the mailing of "Plus" publications at second-class rates. Moreover, rather than creating "a meaningless definition," the proposed regulation will supplement existing regulations to provide a more effective method of dealing with "Plus" publications using the same criteria—persistent and excessive nonsubscriber copy distribution—as has been applied historically.

The second commenter alleges that the Postal Service's proposed rule is "contrary to law" because the underlying amendment to the Domestic Mail Classification Schedule, as proposed by the Postal Service to the Postal Rate Commission, would "transfer classification authority to the [Postal] Service." The commenter also feels that such an amendment would not only circumvent the district court's ruling in *Combined Communications*, but would also be contrary to the Postal Reorganization Act. The substantive merit of the proposed rule, adopting a frequency of publication of more often than once a month as an element of the "Plus" issue regulation, was not explored in this commenter's submittal.

The Postal Service does not agree with the commenter's position on the legitimacy of the proposed classification change and the related rule. The Postal Service filed its Request with the Commission "[i]n order to maintain an orderly administration of second-class mail whatever the outcome of the [Combined Communications] legal challenge" by providing the Postal Service with the "unambiguous authority to craft regulations to prevent the mailing of Plus issues at second-class rates." Request of the United

States Postal Service for a Recommended Decision on Second-Class Eligibility at 4. The District Court's Memorandum Order in the *Combined Communications* case in no way finds, or suggests, that the challenged regulation, DMM section 425.226, would be an inappropriate requirement for entering "Plus" issues into second-class mail. The Court held that the Postal Service lacked the authority to apply the requirement by regulation, under the permanent mail classification schedule then in effect. Rather than attempting to circumvent the Court's Order, as this commenter asserts, the Postal Service's Request directly addressed the concern expressed by the Court.

In challenging this authority, the commenter argues that classification provisions which authorize implementing regulations "as prescribed by the Postal Service" are contrary to law. This position is fundamentally at odds with prior decisions of the Commission, and of the Governors of the Postal Service, in establishing the mail classification schedule. Indeed, there are currently dozens of other similar provisions in the Domestic Mail Classification Schedule that enable the Postal Service to respond to changing circumstances as they arise. Moreover, the arguments that this commenter has made in response to the proposed rule were rejected by the Postal Rate Commission in its Order No. 797 in which the Commission stated:

We are unaware of any "rule of law" applicable to the Postal Service which would preclude the Service from initiating a proceeding with the Commission pending its appeal of the lower court's ruling in *Combined Communications Corp. et al. v. USPS*.

The Commission went on to note that

With regard to *Combined Communications* concerns that temporary implementation of the proposed classification change would constitute "blatantly unlawful conduct," we note that the Postal Service * * * indicates that the effect of temporary implementation of its classification proposal will be limited to excluding "Plus" issues from second class consistent with the Commission's decision in Docket No. C85-1. In this light, we have no reason to believe that the Service will use the administrative discretion afforded it under its proposal in a manner which would constitute an impermissible encroachment upon the Commission's classification powers.

Recently, the Postal Rate Commission reaffirmed its views regarding these claims, again rejecting them as unfounded, noting in its Order No. 801 issued September 19, 1988, that "temporary implementation of the [Postal] Service's proposal will in practice not result in the Service's

exercising the type of ubiquitous discretion that [Combined Communications Corp.] professes concern about * * *."

For these reasons, the Postal Service disagrees with the commenter's legal position.

The third commenter also opposed the proposed rule, essentially providing reasons for its opposition to the adoption of the Postal Service's proposed permanent classification change. This commenter believes that that change would be arbitrary and overbroad in that it would go beyond the purpose of requiring "Plus" issues to qualify independently for second-class rates and would apply the requirement to issues of second-class publications that are not "Plus" issues. The commenter argues that the Postal Service's proposed new "Plus" issue regulation, applicable to issues of a publication that are published on a day different from other issues of the publication, will treat an issue of a newspaper as a separate publication just because the publisher chooses to distribute sample copies of the publication on an "irregular basis." The commenter provides an example of a hypothetical twice-weekly newspaper that consistently distributes a much larger number of sample copies of one issue than of the other issue—enough of a disparity to exceed both the "ten percent nonsubscriber copy" and the "more than twice as many nonsubscriber copies as another issue" tests of the temporary classification schedule provision.

Despite the hypothetical example, the Postal Service has no basis to believe this is a realistic problem and nearly two years of experience with a similar regulation that demonstrates it is not. It knows of no such actual publication with sampling practices similar to the commenter's hypothetical, and the commenter did not provide any such examples. For the two years prior to the *Combined Communications* decision, no such problem with legitimate second-class publications, and their sampling practices, arose. However, the Postal Service wants to stress that the regulation adopted here is designed to curb the abuse of second-class mail privileges by publishers of "Plus" publications. Given its specific terms, the rule should not reach publications engaged in legitimate efforts to obtain new subscribers through the distribution of sample copies of an issue of the publication.

Some of the commenter's concern may derive from a misconception that the proposed rule would apply to an irregular or infrequent practice of

mailing a large number of sample copies, the commenter having noted that the rule might prohibit publishers from doing seasonal promotions with one issue, such as a Christmas issue. This is not the case; one of the key elements of the test for a "Plus" issue in the Postal Service's proposed classification change is the requirement that the issue in question be published at a regular frequency more often than once a month. This means that an occasional mailing of a particular issue with a large number of nonsubscriber copies would not meet the test for a "Plus" publication under the regulation, both as proposed and as adopted. This element of regularity is also a critical feature of the permanent classification schedule provision that applies to "same day" "Plus" issues and is carried forward, with like effect, in the temporary provision. In order to clarify this important point, the Postal Service has revised the regulation to specifically state that one of the elements of the "Plus" issue test is that "the issue is published at a regular frequency * * *."

The third commenter also argued against adoption of the proposed rule because its perceived ambiguity and complexity could result in "tremendous confusion" among both postal employees and publishers, and expressed the fear that the regulation would be misapplied by local postal employees to community newspapers. In order to avoid this possibility and because application of the regulation requires a review of a publisher's publication practices and an examination of multiple issues of a publication, the Postal Service will add a further note in its internal publication, the *POSTAL BULLETIN*, informing all postal employees of the new regulation that the appropriate Rates and Classification Center should be consulted prior to applying this regulation to require that "Plus" publications independently qualify for second-class treatment. This instruction will add further insurance that a mailing situation is thoroughly reviewed before any enforcement action is taken by the Postal Service pursuant to the temporary classification provision and this regulation.

Finally, the commenter urges that the Postal Service deal with "Plus" publication problems on a case-by-case basis through the application of existing procedures and regulations, but without identifying what regulations could be so applied. Although the Postal Service has authority under existing regulations to deal with "Plus" issue problems as they arise in other circumstances, and has

proposed new regulations on reentry applications to aid such an effort (see 53 FR 29748 (August 8, 1988)), implementation of this proposed rule, as amended, is the best approach to resolving the particular problem addressed here. The new regulation's application to "Plus" issues is clear and direct, and application of a similar regulation prior to the *Combined Communications* decision worked well. Moreover, this approach of setting forth specific tests to require "Plus" issues independently to qualify for second-class eligibility is the approach that the Postal Rate Commission and the Governors of the Postal Service have chosen to take in dealing with the problems of "Plus" issues.

In addition to responding to these comments, the Postal Service has revised section 425.227b in the final regulation to state the second test for a "Plus" issue as being whether the publication has "more than" ten percent nonsubscriber copies. This is the language used in the temporary classification change and replaces the less exact "at least" ten percent language in the proposed regulation. The first note to section 425.227 has also been revised to include an informational reference to section 441.151, which was inadvertently omitted from the proposed rule.

After careful consideration of the comments received, the Postal Service, in conjunction with the adoption of a temporary mail classification change noticed elsewhere in this issue, adopts the following change to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service often provides a minimum of thirty days notice of the implementation of a final rule. The Postal Service is not following that practice in this case because the regulation being adopted in this final rule implements the temporary mail classification change adopted as noticed elsewhere in this issue of the *Federal Register*. Pursuant to 39 U.S.C. 3641(e), the Postal Service is adopting that temporary classification change following the provision of the required ten days' notice in the *Federal Register*. Since that temporary change will be effective on October 9, 1988, this implementing regulation must become effective at the same time. Otherwise, the purpose of temporary changes as contemplated in the statute would be partially frustrated.

List of Subjects in 39 CFR Part 111
Postal Service.

PART 111—[AMENDED]

1. The authority citation for Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 425—WHAT MAY BE MAILED AT SECOND-CLASS RATES

2. In part 425.2, add new 425.227 to read as follows:

425.2 Issues and Editions.

* * * * *

425.22 Issues.

* * * * *

425.227 An "issue" of a newspaper or other periodical also will be deemed to be a separate publication, for postal purposes, and must independently meet the applicable second-class eligibility qualifications in 421.2 through 421.4 and 422, when the following conditions exist:

a. The issue is published at a regular frequency on a day different from a regular issue of the same publication, but more frequently than once each month, and

b. More than 10 percent of the total number of copies of the issue are distributed on a regular basis, to recipients who do not subscribe to it or request it, and

c. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of copies of any other issue distributed to nonsubscribers or nonrequesters during the same period.

Note.—See 441.121, 441.151, and 444.1 for requirements for filing certification forms to establish eligibility of an issue under this section.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted automatically to subscribers. Notice of issuance will be published in the *Federal Register* as provided by 39 CFR 111.3

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 88-22374 Filed 9-28-88; 8:45 am]

BILLING CODE 7710-12

Proposed Rules

Federal Register

Vol. 53, No. 189

Thursday, September 29, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

(FV-88-124)

Kiwifruit Grown in California; Proposed Rule to Relax the Standard Pack Requirement and Define Size Designations for Kiwifruit Packed in Certain Containers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would relax the standard pack requirement for Size 39 and smaller kiwifruit packed in certain containers, add a size designation definition in conformity with that change, and add numerical count size and requirements for bags, volume fill, and bulk container definitions to the handling regulation. Relaxing the standard pack requirement to allow a greater size variance for smaller fruit packed in bags, volume fill and bulk containers would reduce handling costs for these packs, which are generally sold at discounted prices. Adding numerical count size designations used in packing and marketing these containers would promote uniformity in sizing kiwifruit. A number of editorial changes are also being proposed to clarify the current kiwifruit handling requirements.

DATE: Comments must be received by October 14, 1988.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Todd A. Delello, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 475-5610.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 920 (7 CFR Part 920), as amended, regulating the handling of kiwifruit grown in California. This order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 145 handlers of California kiwifruit subject to regulation under the marketing order, and approximately 1,225 producers in the production area. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual gross revenue for the last three years of less than \$500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than \$3,500,000. The majority of handlers and producers of California kiwifruit may be classified as small entities.

The 1987 California kiwifruit harvest totalled 7.8 million trays and tray equivalents, 21 percent larger than the 1986 harvest. For the past ten years, kiwifruit production has increased in California and is expected to increase again in 1988 to a total of 8.7 million trays. Most of the crop is shipped to

fresh markets, with only a small volume of fruit utilized by processors. Exports increased 31 percent over last year and are estimated to have accounted for 55 percent of the 1987 production. Domestic shipments are also increasing, with a gain of about 20 percent for the 1987 crop.

The 1987 harvest container breakdown reveals that about 82 percent of the crop was packed in trays with the remainder being distributed between bags (9.2 percent), volume fill containers (8.3 percent), and bulk (0.5 percent). The use of bags, volume fill and bulk containers rose in 1987 to 18.0 percent of shipments compared to 10.7 percent in 1986.

The handling requirements for fresh California kiwifruit are specified in 7 CFR 920.302 (53 FR 34035, September 2, 1988). The current requirements specify that kiwifruit shall grade at least 85 percent U.S. No. 2 with not more than 8 percent allowed for defects other than shape causing damage, not more than 4 percent allowed for defects other than shape causing serious damage, and not more than 1 percent allowed for fruit affected by internal breakdown or decay. Kiwifruit also must meet a minimum size of 49 and contain at least 6.5 percent soluble solids at the time of inspection. Containers (except for those directly loaded into a vehicle for export) must be marked with a lot stamp number corresponding to the lot inspection.

Pack requirements are also specified in paragraph (a)(4) of § 920.302. Some of the current requirements apply to all containers of kiwifruit while others apply only to kiwifruit packed in trays. This rule proposes segregating the current pack requirements by the types of containers to which they apply, and making a number of editorial changes for clarity.

This rule also proposes revising the current pack requirements by increasing the allowable size variance for Size 39 and smaller kiwifruit packed in bags, volume fill and bulk containers from 1/4-inch to 3/8-inch in diameter. A definition of Size 30 is also being proposed for inclusion in the handling regulation. These two changes were unanimously recommended by the Kiwifruit Administrative Committee on July 12, 1988.

Finally, this rule proposes adding numerical count size definitions that are

used by the industry in packing and marketing kiwifruit in containers other than trays. The maximum number of fruit per eight pound sample would be specified in the rule.

All kiwifruit is currently required to be "fairly uniform in size", as defined in the U.S. Standards for Grades of Kiwifruit. Such uniformity is in terms of an allowable variance in diameter among the individual pieces of fruit in a given container. Larger size fruit (Size 30 and larger) may not vary by more than $\frac{1}{2}$ -inch in diameter; intermediate size fruit (Sizes 31 to 38) may not vary by more than $\frac{3}{8}$ -inch in diameter; and smaller size fruit (Size 39 and smaller) may not vary by more than $\frac{1}{4}$ -inch in diameter.

Kiwifruit packed in trays would continue to be required to be "fairly uniform in size". In the interest of clarity, however, it is being proposed that the definition of this term be moved from paragraph (a)(4) to paragraph (b) of the handling regulation (§ 920.302).

For kiwifruit packed in containers other than trays, a modification of the "fairly uniform in size" requirement is being proposed. These other containers include bags, volume fill and bulk containers, which are used primarily for lower quality and smaller sized fruit. Therefore, such packs generally sell at discounted prices. The committee believes that the cost of precise sorting required by the current $\frac{1}{4}$ -inch variance for the smallest sizes of kiwifruit is too high in relation to the returns received. It is therefore being proposed that the allowable variance for these sizes be increased to $\frac{3}{8}$ -inch in diameter to reduce packing costs and increase the number of packs available to consumers. This action should facilitate the handling of small kiwifruit, and the additional $\frac{1}{8}$ -inch in size variation permitted is not expected to adversely affect consumer demand.

Since this requirement would differ from the "fairly uniform in size" requirement, it is being recommended that that term not be used to specify the allowable size variance for kiwifruit packed in containers other than trays. Instead, it is being proposed that the modified specification be fully set forth in § 920.302.

The current pack requirements specify that all kiwifruit must be (1) packed in boxes, flats, lugs, cartons or any other containers, and (2) arranged according to approved and recognized methods. It is being proposed that these two requirements be deleted from the handling regulation. The first is unnecessary because it only states that kiwifruit may be packed in any type of container and does not place any

restrictions on the types of containers that may be used in handling kiwifruit. The second is likewise unnecessary because no methods of arranging kiwifruit have been "approved and recognized." Accordingly, this requirement should be deleted.

As previously indicated, the majority of California kiwifruit is packed in trays which have cell compartments to hold individual pieces of fruit. The size of the fruit packed in these containers is denoted by count, i.e., the number of pieces of fruit packed in the tray. There are currently 19 sizes packed in trays, ranging from Size 49 (the smallest size permitted to be shipped) to size 20. The five most prevalent sizes are 30, 33, 36, 39 and 42 which in 1987-88 accounted for almost 88 percent of the trays packed. These types of containers are required to be marked with a numerical count to designate size, and the number of fruit in the tray must conform to the marked count.

Kiwifruit is also packed in bags, volume fill and bulk containers, which do not have cell compartments. These containers are currently exempt from the requirement that containers be marked with a numerical count to designate size. While not required, the majority of these containers are marked with a size designation, since size is an important factor in marketing kiwifruit.

The numerical size designations used for trays are not directly applicable to bags and other volume fill containers, however. To provide a uniform basis for sizing fruit packed in these containers, the numerical counts used in tray packs have been translated by the committee into equivalent weight counts that can be applied to fruit in other containers. For example, fruit from 30-count trays were assembled into 8-pound samples. The average number of fruit it took to form an 8-pound sample (e.g., 35 pieces of fruit for 30-count trays) then became the criteria to determine the size of the fruit in containers other than trays.

It has been the practice of the committee to annually prepare a Size Designation Chart defining the most commonly packed sizes of kiwifruit in terms of the maximum number of fruit per 8-pound sample. If bags, volume fill or bulk containers are marked to denote size, the Size Designation Chart is used by the Federal-State Inspection Service to verify that the contents of the containers conform to the marked size designation. Since this chart is used in such a way, it is appropriate that it be set forth in § 920.302. It is therefore being proposed that the Size Designation Chart utilized during the 1986-87 and 1987-88 seasons be included in the handling regulation.

While bags, volume fill, or bulk containers would continue to be exempt from the requirement that they be marked with a numerical count, if they are so marked their contents would have to conform to these defined size designations. This action should promote consistency in the sizing of kiwifruit packed in all containers.

Currently, the only size designation that is defined in the handling regulation for other than tray-packed fruit is Size 49, since it is the minimum size permitted to be shipped. While this definition currently appears in paragraph (a)(2) of § 920.302, it should be moved to paragraph (b) for consistency.

Since this rule proposes to set an allowable size variance for kiwifruit packed in bags, volume fill and bulk containers of $\frac{1}{2}$ -inch in diameter for Size 30 and larger and $\frac{3}{8}$ -inch in diameter for all other sizes, a definition of Size 30 should also be incorporated in paragraph (b) of the regulation, again in the interest of consistency. Therefore, it is being proposed that Size 30 be defined to mean that an 8-pound sample representative of the size in a container contains not more than 35 pieces of kiwifruit.

Finally, it is being proposed that the definition of "diameter" currently appearing in paragraph (a)(4) be moved to paragraph (b) of § 920.302. This change would also promote consistency in the regulation.

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A comment period of 15 days is deemed appropriate because the shipping season for California kiwifruit usually starts around the first week in October, and it is important that any change resulting from this rulemaking be in effect as soon as possible to be of maximum benefit to producers and handlers. Furthermore, producers and handlers of kiwifruit in the production area are already aware of the recommended changes, which relax current handling requirements.

List of Subjects in 7 CFR Part 920

Marketing agreements and orders.
Kiwifruit, California.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 920 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 920.302 is amended by revising paragraphs (a)(2), (a)(4) and (b) to read as follows:

§ 920.302 Grade, size, pack and container regulations.

(a)(1) * * *

(2) *Size Requirements.* Such kiwifruit shall be at least a minimum Size 49.

(3) * * *

(4) *Pack Requirements.* (i) All containers of kiwifruit shall be well filled. Contents shall be tightly packed but not excessively or unnecessarily bruised by overfilling or oversizing. Fruit in the shown face of the container shall be reasonably representative in size and quality of the contents.

(ii) Kiwifruit packed in containers with cell compartments, cardboard fillers or molded trays shall be of proper size for the cells, fillers or molds in which they are packed. Such fruit shall be fairly uniform in size. When packed in closed containers the size shall be indicated by marking the container with the numerical count, and the contents shall conform to the marked count.

(iii) Kiwifruit packed in bags, volume fill or bulk containers may not vary more than 1/2 inch (12.7 mm) in diameter if Size 30 or larger and not more than 3/8 inch (9.5 mm) in diameter if smaller than Size 30. When such containers are marked with numerical count size designation, the numerical count size designation shall be one of those shown in Column 1 of the following table and the number of fruit per 8-pound sample shall not exceed the corresponding number shown in Column 2 of the table:

Column 1, numerical count size designation	Column 2, maximum number of fruit per 8-pound sample
25.....	30
27/28.....	31
30.....	35
33.....	37
36.....	43
39.....	50
42.....	55
45/46.....	62
49.....	64

(iv) Not more than 10 percent, by count, of the containers in any lot and not more than 5 percent, by count, of

kiwifruit in any containers may fail to meet the requirements of this paragraph.

(a)(5) * * *

(b) *Definitions.* (1) The terms "U.S. No. 2", "fairly uniform in size" and "diameter" mean the same as defined in the United States Standards for Grade of Kiwifruit (7 CFR 51.2335 through 51.2340).

(2) "Size 49" means that an 8-pound sample representative of the size in a package or container contains not more than 64 pieces of kiwifruit.

(3) "Size 30" means that an 8-pound sample representative of the size in a package or container contains not more than 35 pieces of kiwifruit.

Dated: September 26, 1988.

Robert C. Keeney,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 88-22389 Filed 9-28-88; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1403

Interest on Delinquent Debts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) proposes to amend the regulation for the assessment of late payment interest on delinquent debts owed to CCC to clarify the definition of the term "full amount of the delinquent debt" and to clarify the dates on which late payment interest accrues and is assessed. The authority for the regulation is the Commodity Credit Corporation Charter Act.

DATE: Comments must be received on or before October 31, 1988 to be assured consideration.

ADDRESSES: Comments should be addressed to the Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC, 20013. All comments submitted in response to this proposed rule will be available for public inspection in Room 6094, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC, between 8:30 am and 4:00 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Andree DuVarney, Claims Specialist, (202) 447-4298.

SUPPLEMENTARY INFORMATION: This proposed rule has been revised in accordance with provisions of Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major" because this

rule will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under Departmental Regulation 1512-1. No sunset review date has been set for this regulation because review is ongoing.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

This activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

It has been determined that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons. In addition, CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Therefore, the Regulatory Flexibility Act is not applicable to this rule.

The titles and numbers of the Federal Domestic Assistance Programs to which this proposed rule applies are: Commodity Loans and Purchases, 10.051; Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Storage Facilities and Equipment loans, 10.056; Wheat Production Stabilization, 10.058; Rice Production Stabilization, 10.065; Grain Reserve Program, 10.067; as listed in the Catalog of Federal Domestic Assistance.

The Attorney General and Comptroller General have jointly promulgated the Federal Claims Collection Standards (FCCS) in 4 CFR Parts 101 through 105 as mandated by the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711-3719). CCC is generally exempt from the provisions of the FCCS, since CCC has the authority under section 4(k) of the CCC Charter Act (15 U.S.C. 714b(k)) to make final and conclusive settlement and adjustment of all its claims.

However, the Board of Directors, CCC, has administratively determined that the FCCS shall be applicable to all claims by CCC regardless of the amount (CCC Claims Policy Docket CZ161a, Revision 4).

The FCCS requires that interest be charged on delinquent debts. In accordance with the FCCS, CCC issued regulations at 7 CFR Part 1403, concerning interest to be assessed on delinquent debts owed to CCC.

CCC proposes to amend this regulation to revise the definition of the term "full amount of the delinquent debt" to make it clear that the term does not include administrative costs incurred as a result of the delinquent debt; that is, the additional costs incurred in processing and handling the debt because it became delinquent as defined in 7 CFR 1403.2(d). The FCCS expressly states that late payment interest should not be assessed on these costs.

CCC also proposes to amend the regulation to clarify the dates from which late payment interest accrues and is assessed because the current regulation is vague concerning this difference. This revision will make it clear that it is CCC's policy to follow the rule set forth in the FCCS at 4 CFR 102.13 concerning interest, penalties, and administrative costs.

List of Subjects in 7 CFR Part 1403

Claims, Income taxes, Loan program—agriculture.

Accordingly, it is proposed that the regulations at 7 CFR Part 1403 be amended to read as follows:

PART 1403—[AMENDED]

1. The authority citation to 7 CFR Part 1403 continues to read as follows:

Authority: 15 U.S.C. 714b, 7 U.S.C. 1427.

2. 7 CFR 1403.2 is amended by revising paragraph (c) to read as follows:

§ 1403.2 Definitions.

(c) The term "full amount of the delinquent debt" means the sum of the principal, accrued interest, and any other charges incurred as a result of the legislation or regulation from which the debt arose. The term does not include costs incurred as a result of the delinquent debt such as additional costs incurred in processing, handling or collecting the debt because it became delinquent.

3. 7 CFR 1403.3 is amended by revising paragraph (b) to read as follows:

§ 1403.3 Late Payment Charge.

(b) The method for assessing a late payment charge is as follows:

(1) Late payment interest will be assessed by CCC on the full amount of the delinquent debt and shall accrue from the date on which written notice of the debt and the late payment interest requirement is first mailed or otherwise delivered to the debtor.

(2) CCC shall waive collection of late payment interest on the delinquent debt or any portion of the debt which is paid within 30 days after the date of the written notice and demand for payment.

4. 7 CFR 1403.6 is amended by revising paragraph (b) to read as follows:

§ 1403.6 Applicability.

(b) This part shall not apply to any delinquent debt where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits late payment interest or explicitly fixes the late payment interest that applies to the delinquent debt involved.

Signed at Washington, DC, on September 23, 1988.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88-22390 Filed 9-28-88; 8:45 am]

BILLING CODE 3410-05-M

FEDERAL ELECTION COMMISSION

11 CFR Part 106

Methods of Allocation Between Federal and Non-Federal Accounts; Payments; Reporting

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is considering issuing new rules on how committees may allocate certain expenses and costs between their federal and non-federal accounts, on how payments may be made from such accounts, and also on reporting allocated payments. The rules would affect how party committees, non-connected committees and separate segregated funds making disbursements on behalf of federal and non-federal elections may allocate expenses and costs for three classes of activities: (1) Administrative expenses, such as rent, utilities, office supplies and salaries; (2) exempt activities, such as certain payments for slate cards, sample ballots, campaign materials, voter

registration and get-out-the-vote drives; and (3) other non-exempt activities, such as general voter registration and get-out-the-vote activities.

Please note that the draft rules that follow do not represent a final decision by the Commission. Accordingly, the Commission seeks comments on these rules, especially with respect to their implementation and application. A public hearing has been scheduled to obtain further comments on the rules and issues discussed in this notice. Further information is provided in the supplementary information which follows.

DATES: Comments must be received on or before November 30, 1988. The Commission will hold a hearing at 10:00 a.m. on December 14, 1988. Persons wishing to testify at the hearing should so indicate in their written comments.

ADDRESSES: Comments should be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463. The hearing will be held in the Commission's Ninth Floor hearing room, 999 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, (202) 376-5690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission has initiated a rulemaking to provide clearer guidelines on how committees should allocate disbursements that influence both federal and non-federal elections. The proposed rules would also allow the Commission to ensure that any method of allocation used by state or local party committees is in compliance with the FECA. See, *Common Cause v. FEC*, No. 86-1838, slip op. at 11 (D.D.C. Aug. 3, 1987). On February 23, 1988, the Commission published a Notice of Inquiry seeking comments on the allocation methods that have been approved in advisory opinions and soliciting suggestions for alternative approaches. 53 FR 5277. That notice addressed the use of allocations by non-connected committees and separate segregated funds, in addition to party committees. It also divided the kinds of disbursements that could be allocated into three categories: Administrative expenses; exempt activities, such as sample ballots, campaign materials, and certain voter drives; and non-exempt activities, such as general voter registration and get-out-the-vote activities.

The Commission received three comments in response to the Notice of Inquiry. One of the comments contained

a review of the effectiveness of the allocation methods approved to date. It also described the results of an informal survey on the application of these methods by certain party committees. While the Commission is not in complete agreement with all of the points outlined in this comment, the analyses of current allocation methods was useful in preparing these proposed rules. A second commentator expressed concern over the possible burdensomeness of expenses by party committees. The Commission shares this concern, as it wishes to encourage compliance with the allocation requirements. Two of the alternative approaches under consideration would provide a variety of options for committees to use when allocating costs, most of which are very simple to apply. In addition, those alternatives would provide for flexibility by allowing committees to seek approval of other reasonable allocation methods. The other alternatives proposed in this notice would set forth fixed methods for allocating costs and thus would also provide simple solutions to the allocation question. The third comment suggested the development of a new allocation method based on an incremental cost analysis. This approach would be difficult to implement, as it would require an extensive explanation in the regulations, and thus it appears better suited to areas involving economic regulation, where it is now used, than to the cost of political activity.

The alternatives being proposed today would provide greater specificity regarding the application of approved allocation methods, in contrast to the current broad statement contained in 11 CFR 106.1(e). They would also update the formulas considered by the Commission in advisory opinions.

The Commission is proposing to revise § 106.1(e) to state which committees, and which activities of those committees, are subject to the allocation rules. Section 106.1(e) would then cross-reference new § 106.5, which would contain all of the rules governing allocation of expenses between federal and non-federal accounts.

The Commission is considering four alternative allocation proposals. Two proposals are presented as alternative regulations for § 106.5, and two other proposals are described within this narrative. Alternative A is set forth in the first set of proposed regulations and would include paragraphs (a) (2) through (d) of those proposed rules. This alternative is set forth in proposed language because it is the most detailed

approach under consideration and is therefore best conveyed in that fashion for comment purposes. The narrative discussion of proposed paragraphs (a) (2) through (d) which follows is an explanation of Alternative A. Alternatives B and C are described within this narrative at the conclusion of the explanation of proposed paragraph (d). The Commission notes that, under all three of these alternatives, proposed § 106.5 (a) (1), (e) and (f) of the first set of proposed rules would remain the same. Alternative D is set forth in the second set of alternative regulations. This alternative is set forth in proposed language in order to clarify the details of this approach. Under this alternative, an entirely new proposed § 106.5 is presented.

With respect to the first three proposals, the Commission has not yet established what percentage would be used in either the fixed methods or those that would require a minimum percentage. (Alternative D does not contain any percentages.) A broad range of possibilities exist. For example, the Commission could simply require that expenses be allocated equally between federal and non-federal accounts. The Commission could also include other variables, such as percentages based on the kind of committee that is required to allocate. Thus, the Commission could adopt an approach that required local party committees to allocate 25% of their allocable costs to federal elections. Other types of committees might have different percentages based on their historical level of involvement in federal activity. A third factor that could be considered is whether the year is a federal election year, a Presidential election year or a non-federal election year. Under this approach, the Commission could require, for example, that all general voter identification, voter registration and get-out-the-vote activities which do not mention a specific candidate be considered 100% federal if they are conducted in a Presidential election year.

In the first set of proposed rules, proposed paragraph (a) would set forth the general rules governing allocations under Alternatives A, B and C. Proposed subparagraph (a)(1)(i) would require committees to choose one allocation method per year for all activities in each of the three categories. Thus, once a committee chooses an allocation method for administrative expenses, for example, it would continue to allocate those expenses using the same formula for the remainder of that year. It should be noted that, with respect to allocation of exempt activities, while the method

may remain the same, the actual ratio will likely differ from one activity to the next, since the ratio is based on the portion of a communication devoted to each candidate.

Proposed subparagraph (a)(1)(ii) would require committees to allocate administrative expenses every year. This proposed requirement is based on the assumption that committees conduct numerous activities in a non-federal election year that benefit their federal program, such as fundraising, voter registration, and list-building. In addition, many special elections for federal offices occur in those years. If a committee's federal activities in a non-federal election year are substantially lower than in a federal election year, its ratio under the "funds expended" method will ultimately reflect that. General voter registration or get-out-the-vote activity covered under paragraph (d) would only be allocated in federal election years.

Alternative A

Proposed subparagraph (a)(2) would provide a simple means for certain local party committees to avoid complex allocation calculations. In particular, a local party committee that has a low level of federal activity may choose to allocate all administrative expenses on a fixed percentage between its federal and non-federal accounts or funds. All general voter registration or other activity allocable under paragraph (d) also could be divided on a fixed percentage by such committees between federal and non-federal. Proposed subparagraph (a)(3) would make clear that voter drives and other activities which do not qualify as exempt activities but which mention specific candidates should be allocated under 11 CFR 106.1(a). Since § 106.1(a) now contains a broad direction for allocating costs between candidates, the Commission is considering a conforming amendment to that section which would generally follow the methods set forth in proposed § 106.5(c), with additional language to cover broadcast communications. The Commission welcomes comments on this proposed change to § 106.1(a).

Proposed paragraph (b) would set forth the permissible methods for allocating administrative expenses. Under proposed subparagraph (b)(1), committees would have the option of paying all administrative expenses from their federal account. This option is provided under each category of allocable expenses.

Subparagraph (b)(2) would allow committees to use the "funds expended"

method described in current § 106.1(e). The draft would refine the application of this method, however, to make clear which expenses must be included in the calculation of the ratio. As drafted, it would also establish a four year base period during which a fixed percentage of all administrative expenses would be paid from the federal account, to correct for any under-allocation by a committee under the current rules. The four year period would also create an historical base for a new committees that want to use this method. After this base period, a committee could use its actual expenses from the year four years earlier to establish a ratio for allocating expenses in the current year. A four year time span is proposed to ensure that allocations in presidential election years are compared to other presidential election years and allocations in congressional election years are compared to other congressional election years.

Subparagraph (b)(3) would describe the "candidates method" of allocation. In the proposed rules, this method is applied only to party committees as they are the only committees likely to support a "slate" of candidates. The Commission welcomes suggestions for applying the "candidates method" to other kinds of committees. As drafted, this method would require at least a minimum percentage of administrative expenses to be allocated to the federal account. It would also specify the kinds of offices that should be included when calculating the allocation ratio. See Advisory Opinion 1978-28.

Finally, subparagraph (b)(4) would allow committees to seek approval of other reasonable allocation methods. This option has been proposed in each category of the regulations to help maintain a flexible approach in this area. If these regulations are adopted, the Commission may decide that all prior advisory opinions in this area have been superseded by the regulations. Subparagraph (b)(4) would then have only prospective application.

Proposed paragraph (c) would address allocation methods for exempt activities. Under proposed subparagraph (c)(2), these costs could be allocated based on the portion of a communication devoted to federal candidates, but would establish a minimum percentage of the cost that would be allocated to federal candidates. This method differs from those proposed for administrative and general voter drive expenses because exempt activities involve references to specific candidates. Proposed subparagraph (c)(2)(i) would specify how this ratio would be derived in

specific kinds of communications. Since exempt activities do not include communications through general public political advertising, no method of allocating those costs has been included. Compare discussion of § 106.1(a), *supra*.

Proposed paragraph (d) would govern the allocation of expenses for general voter drives that urge support of a party or candidates associated with a particular issue without naming the candidates. For example, activities that encourage the public to vote Democratic or Republican or to vote for candidates who support a specific issue would be covered under this proposed set of methods. The allocation methods proposed for these activities parallel those set forth in paragraph (b). As in the case of administrative expenses, a fixed minimum percentage of all expenses under this paragraph would have to be allocated to the federal account. Since voter drive expenses are only allocated in federal election years, the Commission believes that a substantial proportion of voter drive activity in those years benefits federal candidates and therefore a fixed minimum percentage of those costs should be paid from the federal account. It should be noted that the "funds expended" method in subparagraph (d)(2) would provide for the same base period as do the proposed rules for allocating administrative expenses. However, since administrative expenses would be allocated every year, proposed subparagraph (b)(2) would establish a four year base period, during which a minimum fixed percentage of all administrative costs would be allocated to federal activity. To create the same base period for voter drive expenses, which are allocated in alternate years, the proposed rules would apply to minimum threshold to the first two election years in which the method was used.

Alternative B

The Commission is considering three other allocation proposals in addition to Alternative A. Alternative B would simply provide that all committees with two accounts (other than separate segregated funds) must allocate their administrative expenses on a fixed percentage basis between those two accounts. In addition, committees would allocate general voter drive activities, including voter identification, voter registration and get-out-the-vote efforts, that do not mention specific candidates on a fixed percentage basis between their two accounts. During a Presidential election year, a higher percentage of general voter drive expenses would be allocated to federal elections. If the

Commission adopts this approach, it may decide to distinguish between types of committees in determining the actual allocation percentages a committee would be required to use.

Alternative C

Alternative C would establish different methods for allocating expenses in federal election years and non-federal election years. During a non-federal election year, committees would allocate administrative expenses and general voter drive expenses based on the ratio of funds received by the federal account to the total amount of funds received by that committee. In a federal election year, the allocation of these expenses would be based on the ratio of federal to non-federal candidates on the ballot. However, in a Presidential election year, committees would be required to allocate a fixed minimum percentage of the costs of general voter drive activities to their federal account.

In the first set of proposed rules, proposed paragraph (e) would describe how each account should pay its share of allocable expenses under Alternatives A, B and C. Under this proposal, non-federal account could pay the entire amount of any administrative expense provided it was promptly reimbursed by the federal account for its allocable share. However, if a committee chooses to pay administrative expenses from its non-federal account but does not make a timely reimbursement from its federal account, the committee would be in violation of the Act. In addition, the federal account's failure to pay its share of expenses would not be a debt that could be settled. Other expenses, such as for exempt activities or voter drives, would have to be paid by each account directly to the vendor in accordance with the chosen allocation method. This proposed distinction is based on the rationale that exempt activities and voter drives are expenses with a direct impact on elections, and thus the non-federal account should not be permitted to advance funds for those purposes. An explanation of how expenses should be paid by committees that are not political committees has also been included in this proposed paragraph.

In its February Notice of Inquiry, the Commission sought comments on a third method of payment, which would involve the establishment of an escrow account into which the federal and non-federal accounts would deposit monies to be used for combined activities. The Commission has not included this as an alternative in the proposed rules for

several reasons. It seems cumbersome, as it requires some additional steps in order to pay bills. It also could require up to three accounts, since committees can choose a different allocation method for each category of activities. Finally, an escrow account would have to be reported as an additional depository by the federal account. However, the Commission welcomes comments on how this payment method could be structured as a viable alternative and any suggestions for other payment methods that could be included.

In the first set of proposed rules, proposed paragraph (f) would contain reporting requirements for allocated costs under Alternatives A, B and C. These proposed reporting provisions seek to achieve a balance between requiring sufficient information to allow the Commission to adequately monitor the use of allocation methods while avoiding overly burdensome reporting. The Commission is interested in receiving comments on another reporting issue not reflected in the proposed rules. The first set of draft rules also would require committees to report certain information about the allocation methods they use on a memo Schedule B. As an alternative, the Commission seeks comments on whether it should develop a new form for reporting allocation methods. If so, what information should this form request?

Alternative D

Alternative D is an entirely separate alternative that covers the allocation, payment and reporting issues for party committees.

This alternative requires party committees to allocate their administrative expenses and non-exempt activities by either a "ballot-office" method, a "prior comparable year" method, or get advance clearance for a customized method. The "ballot-office" method is similar to Alternative A's § 106.5(b)(3)(i) except that Alternative A only offers that method as a substitute for a flat percentage approach. The "prior comparable year" method allows each party committee to estimate its own ratio of allocable federal expenses by choosing a prior year in which comparable races occurred. (For example, if the upcoming year has a gubernatorial election and a senate election, the party would use the ratio of a previous year in which a gubernatorial and senatorial election occurred; a year with a presidential race without a senate race would be compared to a prior presidential year without a senate race, etc.) A party would take that prior year's ratio of

federal to non-federal activity and apply it during the current year. At the end of the year the party would reconcile its estimate with its actual disbursement ratio.

For exempt activities, Alternative D requires allocation on a project-by-project basis, requiring the party committee to divide a communication into federal and non-federal percentages for allocation purposes. This alternative also allows for advance clearance of customized methods but does not propose that the federal account pay for all of a communication (unless it was an entirely federal communication) or apply a strict percentage for all communications.

Alternative D's payment paragraph (d) generally follows proposed § 106.5(e) in the first set of proposed rules except that this alternative does not include party committees that are not "political committees" under the assumption that § 102.5(b) would apply. Also, this alternative contains no additional requirements for expenditures that cross reporting periods. Lastly, the reporting section (e) tracks the allocation requirements as they are described in paragraphs (b) and (c) and requires a memo entry stating the allocation method used.

The Commission welcomes comments on the issues raised in this notice and the attached proposed alternative rules. Any suggestions for additional allocation methods or other requirements are also invited.

List of Subjects in 11 CFR Part 106

Political committees and parties.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. The primary purpose of the proposed revision is to clarify the Commission's rules governing allocation of certain costs by political committees.

It is proposed to amend 11 CFR Part 106 as follows:

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

1. By revising the statutory authority for Part 106 as follows:

Authority: 2 U.S.C. 438(a)(8), 431(8), 431(9), 441a(b), 441a(g).

2. By revising § 106.1(e) as follows:

§ 106.1 Allocation of expenditures among (or between) candidates and activities.

* * * * *

(e) Party committees, non-connected committees and separate segregated funds which have established federal committees or accounts pursuant to 11 CFR 102.5(a), and organizations that are not political committees which make disbursements in connection with both federal and non-federal elections pursuant to 11 CFR 102.5(b), shall allocate the following categories of disbursements in accordance with 11 CFR 106.5:

- (1) Administrative expenses;
- (2) Disbursements for exempt activities under 11 CFR 100.7(b)(9), (15) and (17) and 100.8(b)(10), (16) and (18); and
- (3) General voter identification, registration, and get-out-the-vote activities that are conducted during federal election years.

3. By adding new § 106.5 as follows:

First Set of Proposed Rules (Alternatives A, B, and C)

§ 106.5 Methods of allocation between federal and non-federal accounts; payments; reporting.

(a) *General rules.* (1)(i) Committees that make disbursements in connection with federal and non-federal elections shall select and apply one allocation method for all disbursements made under paragraph (b) of this section, one method for all disbursements under paragraph (c) of this section, and one method for all disbursements under paragraph (d) of this section during a calendar year. A committee may choose one method for allocating the costs of its activities under paragraph (b) of this section, for example, and a different method for its costs under paragraph (c) of this section; however, once a method is used for a particular category of activities, that method must be consistently used for the remainder of that calendar year for all costs described in that paragraph.

(ii) Committees that allocate administrative expenses under this section shall do so every year. However, committees that make expenditures for non-exempt activities under paragraph (d) of this section, such as voter registration drives, are only required to allocate the costs of such activities during federal election years.

(2)(i) Instead of selecting an allocation method under paragraph (b) of this section, a local party organization that meets the requirements of paragraph (a)(2)(ii) of this section may choose to allocate all its expenditures in that category on a ____% federal/____% non-

federal basis between its federal and non-federal accounts or, in the case of a committee that is not a political committee, shall ensure that it has sufficient funds in its account(s) that are permissible under federal law to defray at least ____% of each allocable expenditure. See 11 CFR 102.5(b). Instead of selecting an allocation method under paragraph (d) of this section, a local party organization that meets the requirements of paragraph (a)(2)(ii) of this section may choose to allocate all its expenditures in that category on a ____% federal/____% non-federal basis between its federal and non-federal accounts or, in the case of a committee that is not a political committee, shall ensure that it has sufficient funds in its account(s) that are permissible under federal law to defray at least ____% of each allocable expenditure. See 11 CFR 102.5(b).

(ii) For the purposes of this paragraph, a local party organization means any committee described in 11 CFR 100.14(b) which does not spend more than \$10,000 per calendar year on total disbursements related to federal elections, including all amounts spent for specific federal candidates, all amounts allocated as the federal portion of activities that benefit both federal and non-federal elections, and all amounts allocated as the federal portion of the organization's administrative expenses.

(3) All activities described in paragraph (d) of this section, which include references to specific candidates shall be allocated in accordance with 11 CFR 106.1(a).

(b) *Administrative expenses.* Each party committee and other unauthorized political committee (except for a separate segregated fund whose administrative costs are paid by its connected organization) that establishes federal and non-federal accounts under 11 CFR 102.5(a) shall allocate its administrative expenses, such as rent, utilities, office supplies and salaries, between its federal and non-federal accounts using one of the following methods:

(1) All administrative expenses shall be allocated to the federal account; or

(2) All administrative expenses shall be allocated based on the ratio of federal to total federal and non-federal disbursements by the committee in the calendar year four years prior to the current year except that no less than ____% of all administrative expenses shall be allocated to the federal account in the first four years this method is used by a committee. This ratio shall be determined by dividing:

(i) The total amount expended by the committee for all federal election activity four years earlier, including all amounts contributed to or otherwise spent on behalf of specific federal candidates and all other amounts allocated to the federal account in that calendar year, by

(ii) The total amount spent by the committee in that year for all purposes (other than amounts spent from a building fund); or

(3) All administrative expenses shall be allocated based on the ratio of federal offices to all offices on the ballot in that year. This ratio shall be determined under paragraph (b)(3)(i) or (ii) of this section, whichever is greater:

(i) In the case of a state party, the offices counted shall include all federal offices on the ballot in that state, all state-wide executive offices on the ballot, and all state legislative offices on the ballot in that year. In the case of a local party committee, the offices counted shall include all federal offices on the ballot in the geographical area covered by the party committee, all state-wide executive offices on the ballot in that geographical area, all state legislative offices on the ballot in that area and all county or city executive offices (such as mayor or county executive) on the ballot in that area; or

(ii) The committee shall allocate ____% of its expenses to federal activity and ____% of its expenses to non-federal activity; or

(4) All administrative expenses shall be allocated on any other reasonable basis approved by the Commission in an advisory opinion under 11 CFR Part 112.

(c) *Exempt activities.* Each state or local party committee that makes payments for slate cards, sample ballots, campaign materials, voter registration and get-out-the-vote activities under 11 CFR 100.7(b) (9), (15) or (17) of 100.8(b) (10), (16) or (18), shall allocate between its federal and non-federal accounts the costs of each activity which includes references to both federal and non-federal candidates using one of the following methods:

(1) All costs shall be allocated to the federal account; or

(2) All costs shall be allocated based on the ratio of the portion of the communication devoted to federal candidates or elections as compared to the entire communication. This ratio shall be determined under paragraph (c)(2) (i) or (ii) of this section, whichever is greater:

(i) In the case of a publication, the ratio shall be based on the overall space devoted to federal candidates or elections, as compared to the total amount of space in that publication

devoted to all federal and non-federal candidates or elections. In the case of a phone bank voter drive, the ratio shall be based on the number of questions or statements devoted to federal candidates or elections as compared to the total number of questions or statements devoted to all federal and non-federal candidates or elections a caller is directed to ask or make; or

(ii) The committee shall allocate ____% of such costs to federal activity and ____% of such costs to non-federal activity; or

(3) All costs shall be allocated on any other reasonable basis approved by the Commission in an advisory opinion under 11 CFR Part 112.

(d) *Other non-exempt activities.* Each party committee, separate segregated fund and other unauthorized political committee shall allocate its expenses for voter identification, voter registration, and get-out-the-vote activities (other than those covered under 11 CFR 100.7(b)(17) and 100.8(b)(18)), or any other activities, that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue or cause, without mentioning a specific candidate. This allocation shall be made between the committee's federal and non-federal accounts using one of the following methods:

(1) All such expenses shall be allocated to the federal account; or

(2) All such expenses shall be allocated based on the ratio of federal to total federal and non-federal disbursements by the committee in the calendar year four years prior to the current year except that no less than ____% of such expenses shall be allocated to the federal account in the first two consecutive federal election years this method is used by a committee. This ratio shall be determined by dividing:

(i) The total amount expended by the committee for all federal election activity four years earlier, including all amounts contributed to or otherwise spent on behalf of specific federal candidates and all other amounts allocated to the federal account in that calendar year, by

(ii) The total amount spent by the committee in that year for all purposes (other than amounts spent from a building fund).

(3) All such expenses shall be allocated based on the ratio of federal offices to all offices on the ballot in that year. This ratio shall be determined under paragraph (d)(3) (i) or (ii) of this section, whichever is greater:

(i) In the case of a state party, the offices counted shall include all federal offices on the ballot in that state, all state-wide executive offices on the ballot, and all state legislative offices on the ballot in that year. In the case of a local party committee, the offices counted shall include all federal offices on the ballot in the geographical area covered by the party committee, all state-wide executive offices on the ballot in that geographical area, all state legislative offices on the ballot in that area and all county or city executive offices (such as mayor or county executive) on the ballot in that area; or

(ii) The committee shall allocate ____% of its expenses to federal activity and ____% of its expenses to non-federal activity; or

(4) All such expenses shall be allocated on any other reasonable basis approved by the Commission in an advisory opinion under 11 CFR Part 112.

(e) *Payment methods.* Payments for the costs of activities described in this section shall be made according to one of the following methods:

(1) If the committee is not a political committee under the Act, it shall ensure that there are sufficient funds in its account that meet the requirements of the act to defray the federal portion of each disbursement at the time it is made (see 11 CFR 102.5(b)).

(2) Political committees that have separate federal and non-federal accounts shall make payments as provided in paragraph (e)(2) (i) or (ii) of this section as follows:

(i)(A) The committee's non-federal account shall pay an administrative expense and the federal account shall reimburse the non-federal account within 10 days after each bill is paid, provided that:

(B) If the federal account does not make the reimbursement before the end of the reporting period in which the non-federal account made its payment, the federal account shall report a debt owed to the non-federal account for its allocated share of the expense, as required under 11 CFR 104.11; or

(ii) Each account shall pay its allocated share of each administrative or other expense directly to the vendor or other payee.

(f) *Reporting.* In addition to the reporting required under 11 CFR Part 104, each political committee that allocates disbursements under this section shall report the following information:

(1) In the first report in a calendar year disclosing a disbursement in any category of activities described in this section, the committee shall state in a separate letter:

(i) The particular allocation method used;

(ii) The category of disbursements to which the allocation method was applied; and

(iii) A description of the ratio applied and the manner in which it was derived.

(2) In each report disclosing an allocated disbursement, the committee shall report, on a memo Schedule B, the total amount of the disbursement with an explanatory cross-reference to the amount paid by the federal account, if itemized, and the date on which the disbursement was made from the non-federal account if payment has been made in accordance with paragraph (e)(2) of this section.

Second Set of Proposed Rules (Alternative D)

§ 106.5 Allocating expenses between federal and non-federal accounts; payments; reporting.

(a) *General rules.* (1) Party committees making disbursements in connection with federal and non-federal elections shall allocate disbursements for administrative expenses and non-exempt activities in accordance with paragraph (b) of this section and allocate disbursements for exempt activities in accordance with paragraph (c) of this section.

(2) Administrative expenses include items such as rent, utilities, office supplies and salaries; non-exempt activities include disbursements for voter registration and get-out-the-vote activities or other general party activity not associated with a particular candidate; exempt activities include payments for slate cards, sample ballots, campaign materials, voter registration and get-out-the-vote activity under 11 CFR 100.7(b) (9), (15), (17) or 100.8(b) (10), (16) or (18).

(3) A committee may choose one method for allocating costs under paragraph (b) of this section and a different method under paragraph (c) of this section. A committee may change methods yearly, but not within a calendar year.

(b) *Administrative expenses and non-exempt activity.* Party committees that finance federal and non-federal activity by establishing federal and non-federal accounts under § 102.5(a) shall allocate administrative expenses and non-exempt activities between these two accounts on an annual basis by using one of the following methods:

(1) Expenses shall be allocated on the ratio of federal offices to state offices listed on the ballot in that state in that calendar year. For a state party, the ratio is determined by counting all federal offices on the ballot in that state,

and counting all state-wide offices and all state legislative offices on the ballot in that year. For a local party, the ratio is determined by counting all federal offices on the ballot in its geographical area, and counting all state-wide offices and all state legislative, city and county executive offices on the ballot in that area; or

(2) Expenses shall be allocated on the ratio of federal to non-federal disbursements made by the committee in that calendar year. This ratio can be estimated by reviewing the total federal and non-federal disbursements made by the committee in a prior comparable year. At the end of each calendar year the committee shall reconcile its estimated expenses with its actual disbursements; or

(3) Expenses shall be allocated on any other reasonable basis approved by the Commission in an advisory opinion under 11 CFR Part 112.

(c) *Exempt activities.* Party committees shall allocate the cost of each exempt activity which includes references to both federal and non-federal candidates between its federal and non-federal accounts by using one of the following methods:

(1) Costs shall be allocated on the percentage of space devoted to federal candidates and elections compared to the entire communication. In the case of a publication, the percentage shall be based on the space devoted to federal candidates and elections compared to the total amount of space in that publication. In the case of a phone bank or voter drive, the percentage shall be based on the number of questions or statements devoted to federal candidates and elections compared to the total number of questions or statements a caller is directed to ask or make;

(2) Costs shall be allocated on any other reasonable basis approved by the Commission in an advisory opinion under 11 CFR Part 112.

(d) *Payment methods.* Payment for the costs of activities described in this section shall be made according to one of the following methods:

(1) The committee's non-federal account shall pay the entire expense and the committee's federal account shall reimburse the non-federal account within 10 days after each bill is paid; or

(2) Each account shall pay its allocated share of each expense directly to the vendor or other payee.

(e) *Reporting.* In addition to the reporting required under 11 CFR Part 104, each political committee that allocates disbursements under this section shall report the following

information as a memo entry on Schedule B:

(1) For administrative expenses and non-exempt activities, the allocation method used and the percentage applied.

(2) For each itemized exempt activity, the allocation method used, the ratio applied and the date on which the federal disbursement was made.

Thomas J. Josefiak,
Chairman, Federal Election Commission.

Dated: September 23, 1988.

[FR Doc. 88-22315 Filed 9-28-88; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0645]

Proposed Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed changes to the official staff commentary to Regulation Z (Truth in Lending). The commentary applies and interprets the requirements of Regulation Z and is a substitute for individual staff interpretations of the regulation. The proposed revisions offer additional guidance under the amended adjustable-rate mortgage (ARM) disclosure provisions of Regulation Z with which lenders are required to comply on October 1, 1988. This notice addresses a limited number of issues affecting transactions where certain program features change frequently or have minor variations. The proposed revisions describe the permissible disclosures for such transactions, and will limit the possibility that numerous disclosure forms would be required to reflect the program variations. Additional guidance on other issues arising under the ARM disclosure rule and under other provisions of Regulation Z will be issued in the regular update to the commentary expected to be published in November.

DATE: Comments must be received on or before December 1, 1988.

ADDRESSES: Comments should refer to Docket No. R-0645 and be sent to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. They may be delivered to Room B-2222 of the Eccles Building between 8:45 am and 5:15 pm weekdays or delivered to the

guard station in the Eccles Building Courtyard on 20th Street NW. (between Constitution Avenue and C Street NW.), any time. All comments received at the above address will be available for inspection and copying by any member of the public in the Freedom of Information Office, Room B-1122 of the Eccles Building between 9:00 am and 5:00 pm weekdays.

FOR FURTHER INFORMATION CONTACT:

Michael S. Bylsma, Senior Attorney, or Sharon T. Bowman or Thomas J. Noto, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3667. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

(1) Background

This proposed official interpretation addresses four significant issues arising under the revised disclosure rules for adjustable-rate mortgages (ARMs) in Regulation Z. The new ARM disclosure rules were adopted in final form effective December 28, 1987 (52 FR 48665, December 24, 1987). Compliance with the new rules is mandatory on October 1, 1988, but has been optional since the effective date. Since the adoption of the new disclosure rules, questions have arisen concerning the impact of compliance with certain provisions of the rules. The narrow application of certain disclosure provisions—especially those relating to variations in ARM programs—may cause difficulties in transactions where program features change frequently or result in numerous forms reflecting minor program variations. This notice addresses certain disclosures involving program variations under the ARM disclosure rule, such as rate limitations, terms to maturity, frequency of adjustments, and multiple options. With the revisions, minor program variations should not result in multiple disclosure forms, and fluctuations in certain program features should not result in frequent changes to those forms. In light of the importance of these issues to certain creditors, the Board is publishing the proposed interpretations in advance of the regular update to the Regulation Z commentary. Additional proposed revisions to the Regulation Z commentary, addressing both the ARM disclosure rule and other provisions, are expected to be published in a subsequent notice in November.

(2) Explanation of Revisions

The following is a brief description of the proposed revisions to the commentary:

Subpart C—Closed-End Credit

Section 226.19 Certain Residential Mortgage Transactions 19(b) Certain Variable-Rate Transactions

Paragraph 19(b)(2)

Comment 19(b)(2)-1 would be amended to clarify that the disclosure form for an ARM program in which the only feature that varies is the term to maturity may include the applicable disclosures affected by each term. For example, disclosures for an ARM program which is offered for terms of both 15 and 30 years may contain the disclosures affected by both the 15- and 30-year terms in a single program disclosure form. Furthermore, the comment would be revised to state that certain options that are program features may be disclosed in a single program disclosure form.

Paragraph 19(b)(2)(vi)

Comment 19(b)(2)(vi)-1 would be revised to address the disclosures for transactions in which the interval between consummation or closing and the initial adjustment is not known—for example, when ARM loans are grouped together for sale to a secondary mortgage market purchaser. In such cases, the comment explains that lenders may disclose the timing for the first adjustment as a range of the minimum and maximum length of time from consummation or closing until the first adjustment.

Paragraph 19(b)(2)(vii)

Comment 19(b)(2)(vii)-1 would be revised to address the disclosures for transactions in which the overall limitation on rate increases (and decreases) varies depending on the loan features the consumer chooses, or upon fluctuations in the pricing of the loan. In such cases, the comment explains that the creditor may disclose the range of the lowest and highest rate limitations that may be applicable to the creditor's ARM transactions, and must include a statement that the consumer ask about the rate limitations that are currently applicable.

Paragraph 19(b)(2)(viii)

Comment 19(b)(2)(viii)-5 would be added to allow the creditor to base disclosures for ARM transactions upon terms to maturity within certain ranges specified in the new comment. The

Board requests comment about whether it should require disclosures to be based upon specified terms within those ranges, or whether it should adopt the proposed comment allowing creditors to base disclosures upon any term offered within the ranges. The comment also explains that the creditor would be required to state the term used in making the disclosures.

Comment 19(b)(2)(viii)-6 would be added to explain that a creditor following the alternative rule for disclosing overall rate limitations described in revised comment 19(b)(2)(vii)-1 must base the historical example upon the highest rate limitation disclosed in § 226.19(b)(2)(vii). In addition, such creditors must state the overall limitation used in the historical example.

Comment 19(b)(2)(viii)-7 also would be added to explain the assumptions that can be made by a creditor following the alternative rule for disclosing the frequency of rate and payment adjustments described in revised comment 19(b)(2)(vi)-1. The comment explains that, in disclosing the historical example, the creditor may assume that the first adjustment occurred at the end of the first year in which the adjustment could occur.

Paragraph 19(b)(2)(x)

Comment 19(b)(2)(x)-2 would be added to allow creditors to base their calculations of the initial and maximum rates and payments upon the ranges for terms to maturity stated in new comment 19(b)(2)(viii)-5. The comment explains that the term the creditor selects for making disclosures under § 226.19(b)(2)(viii) also must be used in disclosing the initial and maximum interest rates and payments.

Comment 19(b)(2)(x)-3 would be added to describe how a creditor following the alternative rule for disclosing overall rate limitations described in revised comment 19(b)(2)(vii)-1 would calculate the maximum interest rate and payment. In such cases, the comment explains that the creditor must base the disclosure of the maximum rate and payment upon the highest overall rate limitation disclosed under § 226.19(b)(2)(vii). The creditor would be further required to state the overall rate limitation used in calculating the maximum rate and payment.

Comment 19(b)(2)(x)-4 also would be added to explain how to calculate the initial and maximum rates and payments if a creditor follows the alternative rule for disclosing the timing

of the first rate and payment adjustment described in revised comment 19(b)(2)(vi)-1. The comment explains that the creditor must assume that the first adjustment occurs at the earliest time disclosed under § 226.19(b)(2)(vi).

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Rate limitations, Truth in lending.

To highlight the proposed revisions to the commentary, new language is shown inside arrows. Pursuant to authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604 as amended), the Board proposes to amend the official staff commentary to Regulation Z (12 CFR Part 226, Supp. I) as follows:

PART 226—[AMENDED]

1. The authority citation for Part 226 continues to read as follows:

Authority: Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96-221, 94 Stat. 170 (15 U.S.C. 1604 *et seq.*); sec. 1204(c), Competitive Equality Banking Act, Pub. L. 100-86, 101 Stat. 552.

2. *Text of revisions.* The commentary (12 CFR Part 226 Supp. I) is amended by revising comments 19(b)(2)-1, 19(b)(2)(vi)-1, and 19(b)(2)(vii)-1; and adding comments 19(b)(2)(viii)-5 through -7 and 19(b)(2)(x)-2 through -4.

Supplement I—Official Staff Interpretation

Subpart C—Closed-End Credit

Section 226.19 Certain Residential Mortgage Transactions.

19(b) Certain Variable-Rate Transactions

Paragraph 19(b)(2)

1. *Disclosure for each variable-rate program.* A creditor must provide disclosures to the consumer that fully and separately describe each of the creditor's variable-rate loan programs in which the consumer expresses an interest. * * * An individual program disclosure may consist of more than one page. For example, a creditor may attach a separate page containing the historical payment example for the particular program. ► A creditor offering an ARM with different terms to maturity (or payments based on different amortizations) may make all of the applicable disclosures affected by the term of the loan in a single ARM program disclosure. (See comments 19(b)(2)(viii)-5 and 19(b)(2)(x)-2 for an explanation of how

different maturities should be reflected in the program disclosures.) In addition, the creditor is permitted to include the disclosures for the following options in a single program disclosure if the features are available for the ARM being described: options permitting conversion to a fixed interest rate and options permitting preferred rates for certain consumers. The creditor must state that these options are available and should not reflect them elsewhere in the disclosures, such as in the historical example or in the calculation of the initial and maximum interest rates and payments. ◀ * * *

Paragraph 19(b)(2)(vi)

1. *Frequency.* The frequency of interest rate and payment adjustments must be disclosed. If interest rate changes will be imposed more frequently or at different intervals than payment changes, a creditor must disclose the frequency and timing of both types of changes. For example, in a variable-rate transaction where interest rate changes are made monthly, but payment changes occur on an annual basis, this fact must be disclosed. ► In certain ARM transactions, the interval between loan closing and the initial adjustment is not known and may be different from the regular interval for adjustments. In such cases, the creditor may disclose the initial adjustment period as a range of the minimum and maximum amount of time from consummation or closing. For example, the creditor might state: "The first adjustment to your interest rate and payment may occur no sooner than 6 months and no later than 18 months after closing. Subsequent adjustments may occur once each year after the first adjustment." (See comments 19(b)(2)(viii)-7 and 19(b)(2)(x)-4 for guidance on other disclosures when this alternative disclosure rule is used.) ◀

Paragraph 19(b)(2)(vii)

1. *Rate and payment caps.* The creditor must disclose limits on changes (increases or decreases) in the interest rate or payment. If an initial discount is not taken into account in applying overall or periodic rate limitations, that fact must be disclosed. If separate overall or periodic limitations apply to interest rate increases resulting from other events, such as the exercise of a fixed-rate conversion option or leaving the creditor's employ, those limitations must also be stated. ► In certain ARM transactions, a creditor may offer a range of overall limitations on interest rate changes depending upon a variety of factors such as the program features the consumer chooses, the type of residential property involved, or the amount of the loan or the downpayment. In other ARM transactions, the overall limitations on rate changes offered by creditors may vary within a certain range depending upon factors such as fluctuations in initial interest rates and in margins. In such transactions, the creditor need not disclose each overall rate limitation that is currently available. Instead, the creditor may disclose the range of the lowest and highest overall rate

limitations that may be applicable to the creditor's ARM transactions. For example, the creditor might state: "The limitation on increases to your interest rate over the term of the loan will be set at an amount in the following range: between 4 and 7 percentage points above the initial interest rate." A creditor using this alternative rule must include a statement in its program disclosures suggesting that the consumer ask about the overall rate limitations currently offered for the creditor's ARM programs. (See comments 19(b)(2)(viii)-6 and 19(b)(2)(x)-3 for an explanation of the additional requirements for a creditor using this alternative rule for disclosure of overall rate limitations.)

Limitations do not include legal limits in the nature of usury or rate ceilings under state or federal statutes or regulations. (See § 226.30 for the rule requiring that a maximum interest rate be included in certain variable-rate transactions.)

Paragraph 19(b)(2)(viii)

►5. *Term of the loan.* In calculating the payments and loan balances disclosed in the historical example, a creditor may assume that an ARM that would have been outstanding during any portion of a year would have been outstanding for the full year. In addition, a creditor need not base the disclosures on each term to maturity that it offers. Instead, disclosures for ARMs with terms to maturity within the following ranges may be based on any single term (in full years) that is offered within the applicable range: Over 1 year to 5 years; over 5 years to 10 years; over 10 years to 15 years; over 15 years to 20 years; over 20 years to 25 years; over 25 years to 30 years; over 30 years to 35 years; and over 35 years to 40 years. For example, disclosures for ARMs offered with terms from 15 to 30 years may be based on terms such as 15, 20, 25, and 30 years, or any other 4 terms within the appropriate ranges stated above. In addition, the creditor must state the term used in making the disclosures.

6. *Overall rate caps.* In certain transactions, a creditor may use the alternative rule described in comment 19(b)(2)(vii)-1 for disclosure of overall rate limitations. In such cases, the historical example must be based upon the highest overall rate limitation disclosed under § 226.19(b)(2)(vii). In addition, the creditor must state the overall limitation used in the historical example. (See comment 19(b)(2)(x)-3 for an explanation of the use of the highest rate limitation in other disclosures.)

7. *Frequency of adjustments.* In certain transactions, creditors may use the alternative rule described in comment 19(b)(2)(vi)-1 for disclosure of the frequency of rate and payment adjustments. In such cases, the creditor may assume for purposes of the historical example that the first adjustment occurred at the end of the first full year in which the adjustment could occur. For example, in an ARM in which the first adjustment may occur between 6 and 18 months after closing and annually thereafter, the creditor may assume that the first adjustment occurred at the end of the historical example. (See comment 19(b)(2)(x)-

4 for an explanation of how to compute the maximum interest rate and payment when the initial adjustment period is not known.)

Paragraph 19(b)(2)(x)

►2. *Term of the loan.* In calculating the initial and maximum payments, the creditor need not base the disclosures on each term to maturity offered under the program. Instead, the creditor may follow the rules set out in comment 19(b)(2)(viii)-5. In calculating the initial and maximum payment, the terms to maturity selected for the purpose of making disclosures under § 226.10(b)(2)(viii) must be used. In addition, creditors must state the term used in making the disclosures under this section.

3. *Overall rate caps.* In certain transactions, a creditor may use the alternative rule for disclosure of overall interest rate limitations described in comment 19(b)(2)(vii)-1. In such cases, the maximum interest rate and payment must be based upon the highest overall rate limitation disclosed under § 226.19(b)(2)(vii). In addition, the creditor must state the overall rate limitation used in calculating the maximum interest rate and payment. (See comment 19(b)(2)(viii)-6 for an explanation of the use of the highest rate limitation in other disclosures.)

4. *Frequency of adjustments.* In certain transactions, a creditor may use the alternative rule for disclosure of the frequency of rate and payment adjustments described in comment 19(b)(2)(vi)-1. In such cases, the creditor must base the calculations of the initial and maximum rates and payments upon the earliest possible first adjustments disclosed under § 226.19(b)(2)(vi). (See comment 19(b)(2)(viii)-7 for an explanation of how to disclose the historical example when the initial adjustment period is not known.)

By order of the Board of Governors of the Federal Reserve System, September 26, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-22397 Filed 9-28-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. MM-33; Notice No. SC-89-7-NM]

Special Conditions; McDonnell Douglas DC-9-80 and MD-80 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the McDonnell Douglas

Model DC-9-80 and MD-80 series airplanes. These series airplanes will have a novel or unusual design feature associated with the installation of a windshear detection initiated autothrottle activation system, for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. The design adds a special function to the existing autothrottle requirements. This notice contains the additional safety standards which the Administrator considers necessary, because of the added design feature, to establish a level of safety equivalent to that established by the airworthiness standards of Part 25.

DATE: Comments must be received on or before November 14, 1988.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-33, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM-33. Comments may be inspected in the rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Walker, FAA, Airframe and Propulsion Branch, ANM-112, Transport Airplane Directorate Aircraft Certification Service, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168 telephone (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special condition by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in light of comments received. All comments submitted with be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to

acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-33." The postcard will be date/time stamped, and returned to the commenter.

Background

On January 29, 1988, the Douglass Aircraft Company, 3855 Lakewood Boulevard, Long Beach, California 90846, applied to the FAA for a change in the type design for the DC-9-80 and MD-80 series airplanes to incorporate a new windshear alert and guidance system (WAGS).

The windshear alert and guidance system installation is designed to assist the flightcrew in the detection, warning, and escape of windshear conditions during the takeoff roll, takeoff, approach, and "go-around" phases of airplane operation. A new windshear computer integrates data from existing on board airplane sensors with windshear detection and control law logic in the computer to provide a windshear annunciation or alert, and a pitch limit indicator display and escape guidance via the flight director fast/slow and autopilot commands. In addition, the windshear computer provides a command to the digital flight guidance computer which, in turn, provides engine thrust control via the autothrottle, thrust rating indicator, and the automatic reserve thrust system (ARTS). The windshear computer is the only new line replaceable unit which will be incorporated for this system. The remainder of the windshear system, except for some additional warning lights, is composed of components which already exist on the airplane.

The windshear system is designed in accordance with the criteria defined in Advisory Circular (AC) 25-12, Airworthiness Criteria for the Approval of Airborne Windshear Warning Systems in Transport Category Airplanes, which states that the system should: (1) Demonstrate adequate reliability; (2) provide annunciation and checkability, which includes indication of failure/flight of the system and sensors and computers, and (3) follow the identified flight profiles for operation to 1,000 feet above ground level (AGL) for the takeoff case, and from 1,000 feet AGL to 50 feet AGL for the approach to landing case, (as defined in the advisory circular).

Notwithstanding the requirements of §§ 215.111(c)(4), 25.901, and 25.903 of the FAR, the new design features will require additional airworthiness standards to establish a level of safety

equivalent to that established in the regulations. The additional requirements are for installation of that part of the installed WAGS that will provide an engine thrust control function which automatically signals the autothrottle to increase engine thrust whenever a windshear condition is detected during takeoff. The system constitutes that portion of the WAGS that, for "reduced thrust" takeoff operations, upon a signal from the windshear computer, will unclamp the locked autothrottle and will command the autothrottle to increase engine thrust to the maximum go-around thrust allowed for the ambient conditions. If the takeoff is initiated at normal takeoff thrust levels and ARTS is armed, the windshear initiated command will increase thrust to the maximum approved installed takeoff thrust by actuation of the ARTS on both engines, without unclamping or moving the autothrottle. The system involved includes those portions of all devices, both mechanical and electrical, that allow the flightcrew to determine the system's status and that increases the thrust on windshear command.

Under the provisions of § 21.101 of the FAR, an applicant for a change to a type certificate must comply with either the regulations incorporated by reference in the type certificate (i.e., the original type certification basis), or with the applicable regulations in effect on the date of the application for the change. In addition, if the proposed change consists of a new design or a substantially complete redesign of a component, equipment installation, or system installation, and the regulations incorporated by reference do not provide adequate standards with respect to the proposed change, the applicant must comply with regulations in effect on the date of the application for the change, and special conditions established under the provisions of § 21.16, as necessary to provide a level of safety equivalent to that established by the regulations incorporated by reference.

The type certification basis for the McDonnell Douglas DC-9-80 and MD-80 series airplanes is Part 25 of the FAR effective February 1, 1965, as amended by Amendments 25-1 through 25-40, with certain exceptions, not pertinent to the subject of these proposed special conditions, which are identified in the Model DC-9 Type Certificate No. A6WE, and ATTCS Special Conditions 25-88-WE-25 (ARTS).

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part

of the type certification basis in accordance with § 21.17(a)(2).

Novel or Unusual Design Feature

The type design of the Model DC-9-80 and Model MD-80 series airplanes, with the WAGS installed, will incorporate a novel or unusual design feature associated with the installation of a windshear detection initiated autothrottle activation system.

The windshear system proposed by McDonnell Douglas will, for a reduced thrust takeoff, provide automatic engagement (unclamping) of the autothrottle and advance of the engine throttles to "go-around" thrust on detection of a windshear condition.

Since the type certification basis does not have adequate or appropriate safety standards for this unique and novel design feature, special conditions are necessary to establish a level of safety equivalent to that established in the regulations.

The FAA considers the automatic advance of the autothrottle on detection of a windshear condition during takeoff to be a special emergency operation which will enhance safety in windshear conditions detected during takeoff.

During takeoff, the only options available to the pilot, once windshear is encountered, are to rapidly advance and set engine thrust and trade aircraft kinetic energy, as necessary, to maintain a positive climb gradient. Normally the optimum strategy is to delay reducing airspeed until at least level flight is no longer possible at the existing pitch attitude and airspeed with maximum rated thrust applied. This procedure saves the available airplane kinetic energy as long as possible in the event the windshear becomes more severe.

Automatic advance of the engine power levers by the autothrottle system to increase thrust will permit the pilot to concentrate on the critical airplane parameters of airspeed and pitch angle. This is especially essential to reducing the workload in the two-man crew cockpit environment of the DC-9 and MD-80 airplanes. The windshear condition may persist for a relatively long period, and the intensity of this condition requires extensive pilot concentration. With this system (automatic power advancement), the pilot still retains the option to manually override the autothrottle in the event of either its failure to respond or an inappropriate autothrottle response.

The special conditions proposed herein apply only to the takeoff phase of the airplane operation and only those functions and components that (with an initiated command) will increase engine

thrust, using the autothrottle, to the maximum go-around thrust level.

Conclusion

This action affects only certain unusual or novel design features on McDonnell Douglas DC-9-80 and MD-80 series airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the McDonnell Douglas DC-9-80 and MD-80 series airplanes incorporating a windshear triggered autothrottle system.

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 *et seq.*; E.O. 11514; 49 U.S.C. 106(q) (Revised Pub. L. 97-449, January 12, 1983).

2. *With that portion of the windshear control system that advances engine thrust, functioning normally as designed, all applicable requirements of Part 25, of the ATTCS Special Condition 25-88-WE-25, and of these special conditions must be met without requiring any action by the crew to increase thrust.*

3. *System Reliability Requirement.* The loss of or a reduction in thrust due to a malfunction of this system, when actuated during the takeoff interval between reaching an airspeed of 60 knots and an altitude of 400 feet AGL, must be shown to be improbable.

4. *Thrust Setting/System Operation.* The operation of this system, when actuated at any permitted reduced thrust level and with any permitted combination of autothrottle and ATTCS operation to increase thrust, must be shown to be free of hazardous airplane characteristics and engine response under conditions simulating the likely environment.

5. *Powerplant Instruments and Controls.* In addition to the requirements of §§ 25.1141 and 25.1305 of the FAR, the system must be designed to:

a. Achieve the target thrust without exceeding engine operating limits or airplane V_{MC} considerations; and upon attainment of the target thrust by use of the autothrottle, automatically reclamp;

b. Permit manual decrease or increase through the use of the power levers;

c. Provide a means to annunciate to the flightcrew before reaching an airspeed of 60 knots, if the system has failed;

d. Prevent an autothrottle retard action until the airplane has reached an altitude of

400 feet AGL during takeoff, unless pilot initiated;

e. Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation; and

f. Provide a means to indicate the automatic actuation of the power levers, fuel control, or other means used to increase the thrust on all engines.

Issued in Seattle, WA, September 16, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-22365 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-109-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require ultrasonic inspection of certain engine strut diagonal brace lugs for cracks, and replacement, if necessary. This proposal is prompted by reports of cracked diagonal braces. This condition, if not corrected, could lead to overloading the remaining strut attach points and possible structural damage.

DATES: Comments must be received no later than November 18, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103) Attention: Airworthiness Rules Docket No. 88-NM-109-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103). Attention: Airworthiness Rules Docket No. 88-NM-109-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Six operators have reported finding ten cracked engine strut diagonal braces on Boeing Model 747 series airplanes which had accumulated 27,150 to 71,500 flight hours and 6,900 to 16,500 flight cycles. Of the ten cracked braces reported, three had cracks in both lugs at one end. The diagonal brace lug cracking initiated at lug bore corrosion pits and was propagated by fatigue. This condition, if not corrected, could lead to overloading the remaining engine strut attach points and possible structural damage.

The FAA has reviewed and approved Boeing Service Bulletin 747-54-2126, dated June 16, 1988, which describes procedures for ultrasonic inspection for cracks of the lug bores on affected diagonal braces. A terminating action is also described, which consists of removing existing diagonal brace bushings, oversizing holes as required to eliminate corrosion, installing high-interference fit bushing with wet sealant, and fillet sealing bushing flanges.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require ultrasonic

inspection of the diagonal brace lugs for cracks and replacement of cracked parts, if necessary, on certain Boeing Model 747 series airplanes, in accordance with the service bulletin previously mentioned.

It is estimated that 204 airplanes of U.S. registry would be affected by this AD, that it would take approximately 9 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$73,440.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1345(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747-54-2126, dated June 16, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the engine strut diagonal brace lugs, accomplish the following:

A. Prior to the accumulation of 10,000 landings or 8 years in service, whichever occurs first; or within the next 3 months after the effective date of this AD, whichever occurs later; ultrasonically inspect engine strut diagonal brace lugs for cracks, in accordance with Boeing Service Bulletin 747-54-2126, dated June 16, 1988.

B. If cracking is found, prior to further flight, replace the diagonal brace with a new or overhauled diagonal brace incorporating the terminating action described by paragraph D., below, in accordance with Boeing Service Bulletin 747-54-2126, dated June 16, 1988.

C. If no cracking is found, repeat the inspection required by paragraph A., above, at intervals not to exceed 1,000 landings.

D. Terminating action for the inspections required by paragraphs A. and C., above, consists of removing existing bushings, oversizing bores to remove corrosion, installing high-interference fit bushings with wet sealant, and fillet sealing bushing flanges, in accordance with Boeing Service Bulletin 747-54-2126, dated June 16, 1988.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124.

These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on September 16, 1988.

Leroy A. Keith

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-22325 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-CE-28-AD]

Airworthiness Directives; Piper Model PA-46-310P Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to Piper Model PA-46-310P airplanes which modifies the engine cooling system. Incidents have occurred that indicate excessive operating temperatures have resulted in engine damage. The actions of this AD would prevent catastrophic engine failure due to insufficient cooling air.

DATE: Comments must be received on or before October 31, 1988.

ADDRESSES: Piper Aircraft Corporation Service Bulletin (SB) No. 892, dated August 24, 1988, applicable to this AD, may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567-4366. This information may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 88-CE28-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry Robinette, Aerospace Engineer, Propulsion Branch, ACE-140A, Atlanta Aircraft Certification Office, FAA, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-3810.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are

specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Airworthiness Rules Docket No. 88-CE-28-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Recent tests conducted by Piper on its Model PA-46-310P airplanes confirmed that both oil and cylinder head normal operating temperatures were exceeded due to insufficient air flow through the engine compartment. This condition, if not corrected, can result in catastrophic failure of the engine due to excessive heat.

As a result, Piper has issued Service Bulletin (SB) No. 892, dated August 24, 1988, specifying a powerplant cooling improvement kit which adds another louver to each nose gear door, modifies the baffle in front of the number six cylinder and moves the cylinder head temperature thermocouple to the number six cylinder. This kit allows for increased cooling air flow thereby reducing engine temperatures so that the limits are not exceeded within the normal operations.

Since the condition described herein is likely to exist or develop in other Piper Model PA-46-310P airplanes of the same design, the AD would require compliance with Piper SB No. 892 on these airplanes.

The FAA has determined there are approximately 403 airplanes affected by the proposed AD. The cost of modifying these airplanes as required by the proposed AD is estimated to be \$338 (kit, \$25 allowances for paint and 6 hours labor allowance to be absorbed by Piper) per airplane. The total cost is estimated to be \$136,214 to the private sector. The cost of complying with the proposal would not have a significant financial impact on any small entities owning affected airplanes.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and

the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:
Piper: Applies to Model PA-46-310P (all serial numbers) airplanes certified in any category.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD unless already accomplished.

To prevent possible catastrophic engine failure accomplish the following:

(a) Modify the engine cooling system in accordance with Piper Service Bulletin 892, dated August 24, 1988.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) An equivalent means of compliance with the requirements of this AD, if used, must be approved by the Manager, Atlanta Aircraft Certification Office, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Piper

Aircraft Corporation, 2926 Piper Drive, Vero Beach Florida 32960; the documents may also be examined at the Office of the Assistant Chief Counsel, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, Room 1558, Rules Docket No. 88-CE-28-AD between the hours of 8 a.m. and 4 p.m. Monday through Friday, holidays excepted.

Issued in Kansas City, Missouri, on September 15, 1988.

Don C. Jacobsen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-22317 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-ASO-16]

Proposed Revocation of Transition Area; Belzoni, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke the Belzoni, Mississippi, transition area. The runway surface has deteriorated beyond usability and the airport has been NOTAM closed since November 1987. There are no definite plans to reopen the airport. Action has been taken to permanently cancel the only standard instrument approach procedure to the airport.

DATES: Comments must be received on or before November 15, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO-530, Manager, Airspace and Procedures Branch, Docket No. 88-ASO-16, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions

presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88-ASO-16". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the Belzoni, Mississippi transition area. The transition area is no longer required for protection of instrument flight aeronautical operations since the airport has been effectively closed since November 1987 with no definite plans to reopen. Also, action has been initiated to cancel the standard instrument approach procedure serving the Belzoni Municipal Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6D dated January 4, 1988.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Belzoni, Mississippi [Removed]

Issued in East Point, Georgia, on September 16, 1988.

James L. Wright,

Air Traffic Manager, Southern Region.

[FR Doc. 88-22318 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-ASW-8]

Proposed Revision of Transition Area; Center, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at Center, TX. A standard instrument approach

procedure (SIAP) to the Center Municipal Airport was canceled many years ago, but the transition area was never removed. The development of a new SIAP to Runway 16 at the Center Municipal Airport, utilizing the Amazon Nondirectional Radio Beacon (NDB), has made this proposed revision necessary. The intended effect of this proposed revision is to modify the existing transition area to accommodate the new SIAP and provide adequate controlled airspace for aircraft executing the new NDB RWY 16 SIAP. The status of the airport still remains instrument flight rules (IFR).

DATES: Comments must be received on or before November 1, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 88-ASW-8, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88-ASW-8." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on

the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76192-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Center, TX. The development of a new NDB RWY 16 SIAP to the Center Municipal Airport has necessitated this proposed revision. The existing transition area was developed for an old SIAP that was canceled many years ago; however, the transition area was never removed. The intended effect of this proposal is to modify the existing transition area in order to accommodate the new NDB RWY 16 SIAP and provide adequate controlled airspace for aircraft executing this new SIAP. The status of the airport will remain IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 1, 1988.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small

entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Center, TX [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Center Municipal Airport (latitude 31°49'46" N., longitude 94°09'22" W.) and within 4.5 miles each side of the 320° bearing of the Amason NDB (latitude 31°50'10" N., longitude 94°08'59" W.) extending from the 6.5-mile radius area to 9 miles northwest of the Amason NDB.

Issued in Fort Worth, TX on September 15, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88-22319 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Ch. V

Worker Adjustment and Retraining Notification Act: Solicitation of Comments in Advance of Proposed Rulemaking; Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of correction.

SUMMARY: The Federal Register Notice of September 16, 1988, page 36060, first column inadvertently omitted some brackets and a footnote pertaining to the language in the part entitled "Exclusions from Definition of Employment Loss"

which begins at the bottom of the first column on page 36060.

FOR FURTHER INFORMATION CONTACT: Robert N. Colombo, Telephone: (202) 535-0577.

SUPPLEMENTARY INFORMATION: The part entitled "Exclusions from Definition of Employment Loss" should have read as follows:

Exclusions from Definition of Employment Loss. The Conference Agreement incorporates the exemptions from notification for sales and relocations of a business in modified form as exclusions from the definition of "employment loss." [Thus, a closing or layoff resulting from the sale of part or all of the employer's business does not give rise to an employment loss if

(a) The employee is covered at the time of the sale by a written rehire agreement between the buyer and the seller of the business to which the employee is explicitly made a third party beneficiary with rights against the purchaser under applicable state law; or

(b) The employee within 30 days after the sale is offered employment by the buyer.]¹

In addition, a closing or layoff resulting from the relocation or consolidation of part or all of the employer's business does not give rise to an employment loss for a particular employee if, prior to the employee's termination or layoff,

(a) The employer offers to transfer that employee within a reasonable community distance; or

(b) The employer offers to transfer the employee to any other site of employment regardless of distance, and the employee accepts within 30 days of the offer or of the termination or layoff, whichever is later.

An example to which this may apply would be a situation where an employer owns five grocery stores in a metropolitan area. After deciding that one of the stores is no longer competitive, the employer decides to shut it down and makes a timely offer to transfer its employees to one or more of the remaining stores with no more than a six-month break in employment.

¹ Note on Bracketed Report Text: An Amendment was made to this provision on the floor of the Senate during consideration of S. 2527 which clarifies that in the case of a sale, the seller shall be responsible for providing the required notice for plant closing or mass layoff up to and including the effective date of the sale. After the effective date of the sale, the purchaser is responsible for providing such notice.

Signed at Washington, DC., this 23rd day of September, 1988.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 88-22314 Filed 9-28-88; 8:45 am]

BILLING CODE 4510-30-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL-3455-4]

Ocean Dumping; Proposed Site Designation; Atlantic Ocean Offshore Brunswick Harbor, GA

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate the existing, interim-approved Ocean Dredged Material Disposal Site (ODMDS) in the Atlantic Ocean offshore Brunswick Harbor, Georgia, as an EPA-approved ocean dumping site for the dumping of suitable dredged material. This action is necessary to provide an acceptable ocean dumping site for dredged material disposal projects in the greater Brunswick, Georgia vicinity.

This Proposed Rule also corrects the discrepancies in the Brunswick Harbor ODMDS boundary coordinates relative to the draft and final Environmental Impact Statement (EIS), 40 CFR 228 (Revised as of July 1, 1984 and 1987), and 42 FR 2461 (January 11, 1977; pg. 2485).

DATE: Comments must be received on or before October 31, 1988.

ADDRESSES: Send comments to: Frank M. Redmond, Chief, Wetlands and Coastal Programs Section, Water Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

The file supporting this proposed designation is available for public inspection at the following locations: EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW., Washington, DC 20460. EPA/Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Reginald G. Rogers, 404/347-2126.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to

designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the sites are located. This proposed designation of a site offshore Brunswick Harbor, Georgia, which is within Region IV, is being made pursuant to that authority.

The EPA Ocean Dumping Regulations promulgated under the Act (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by promulgation in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 (January 11, 1977)). The list established the existing Brunswick Harbor site as an interim site. Interested persons may participate in this Proposed Rulemaking by submitting written comments within 30 days of the date of this publication to the address given above.

B. EIS Development

Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321 *et seq.*, requires that Federal agencies prepare an EIS on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

The object of NEPA is to build careful consideration of all environmental aspects of proposed actions into the agency decision-making process. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EISs in connection with ocean dumping site designations such as this (see 39 FR 16186 (May 7, 1974)). EPA, in cooperation with the Savannah District of the U.S. Army Corps of Engineers (COE), has prepared a draft and final EIS entitled "Brunswick Harbor, Georgia Ocean Dredged Material Disposal Site Designation." This Proposed Rule and the subsequent Final Rule are procedural follow-ups to the EIS. This Proposed Rule includes EIS excerpts.

The action discussed in this EIS is the final designation for continuing use of the existing interim ocean dredged material disposal site near Brunswick Harbor, Georgia. The purpose of the action is to provide an environmentally acceptable location for ocean disposal. The need for ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

For the Brunswick Harbor ODMDS, the COE and EPA would evaluate all Federal dredged material disposal

projects pursuant to the EPA criteria given in the Ocean Dumping Regulations (40 CFR Parts 220-229) and the COE regulations (33 CFR 209.120 and 209.145). The COE also issues MPRSA permits to private applicants for the transport of dredged material intended for disposal after compliance with these regulations is determined. EPA has the right to disapprove any ocean disposal project if, in its judgment, all provisions of MPRSA and the associated implementing regulations have not been met. State permitting would not be needed for the Brunswick Harbor ODMDS since the disposal site is located outside of State of Georgia waters and the State of Georgia currently has no approved Coastal Zone Management Plan.

On Friday, November 28, 1986, the Notice of Availability of the draft EIS for public review and comment was published in the *Federal Register* (51 FR 43082 (November 28, 1986)). The public comment period on the draft EIS closed on January 12, 1987.

The Notice of Availability of the final EIS for public review and comment was published in the *Federal Register* on Friday, March 25, 1988 (53 FR 9806 (March 25, 1988)). The public comment period closed on April 25, 1988. The final EIS addressed the eight comments received on the draft EIS.

The EIS discusses the need for this site designation and examines ocean disposal site alternatives to the proposed action. The EIS considers mid-shelf and shelf-break alternative sites (Continental Shelf) using the general criteria and specific factors contained in the Ocean Dumping Regulations, 40 CFR Part 228. Dredged material disposal has not occurred previously at the mid-shelf or shelf-break alternative site locations. There are significant dissimilarities between the physical and chemical characteristics of the dredged material sediments and sediments covering the mid-shelf or shelf-break regions. Altering the sediment texture and composition through the addition of finer coastal sediments may have a long-term adverse impact on the benthic infauna at the mid-shelf and shelf-break sites. Fishery resources are localized over the mid-shelf and shelf-break areas. These hard bottom areas are unique habitats, support several species of commercially and recreationally important finfish, and are sensitive to the effects of dredged material disposal. Also, the Continental Shelf offshore Brunswick is so wide that any site chosen beyond the shelf-break would be beyond economical distances for transporting materials; several proposed

or active Minerals Management Service oil and gas lease sites exist in the mid-shelf and shelf-break regions; and the Ocean Dumping Regulations require the designation of sites which have historically been used, where feasible. The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation use and is based on one of a series of disposal site environmental studies.

Eight comment letters were received on the final EIS. No substantive comments were made in several of these letters: The Department of the Air Force indicated "no impact for Air Force operations in the area;" the Department of Health and Human Services (Center for Disease Control) stated "no further comments" since no specific comments were provided on the draft EIS; the U.S. Department of Housing and Urban Development had "no objection to the proposed action;" the Historic Preservation Section of the Georgia Department of Natural Resources (GDNr) indicated "no impact" on "historic structural or archaeological resources included in or eligible for listing in the National Register of Historic Places;" and the Brunswick Office of the GDNr requested a copy of the final EIS (which was subsequently provided by EPA). The U.S. Food and Drug Administration indicated by telephone that no comments would be forthcoming. Also, at least two telephone calls were received by the Region regarding the closing date of the final EIS comment period. After the comment period, at least one telephone request for a copy of the FEIS was made (a copy was subsequently sent by EPA).

Substantive comments were received from the Georgia Department of Transportation (GDOT). The GDOT, which owns and operates the Sidney Lanier Bridge (U.S. 17) crossing the entrance channel to Brunswick Harbor, was "concerned that any widening or deepening of the channel during dredging operations may increase the scour and erosion around Piers 29 and 30 of the bridge." The GDOT requested "that EPA address our concern of dredging in proximity to or through the width of the Sidney Lanier Bridge." However, since no actual dredging or dumping of dredged material is authorized by designation of an ODMDS, the GDOT's dredging concerns would not directly apply to EPA's proposed action. Consequently, the GDOT comment letter was forwarded to the COE (Savannah District: Planning Division and Operations Division) on June 8, 1988, for their consideration.

Substantive comments were also provided by the Atlanta office of the GDNr. In a letter dated March 31, 1988, the GDNr confirmed its interest in a meeting with EPA to further discuss the Brunswick Harbor FEIS; specifically, "discussing alternatives for disposal of material from maintenance dredging and channel widening, and in particular, alternate mechanisms to recycle suitable materials to the near shore environment." This letter indicated a meeting date and provided two enclosures: A fact sheet ("Golden Isles Beach Renourishment Needs") and an area map ("Golden Isles Beaches & Brunswick Harbor Bar Channel"). The meeting was held on April 12, 1988, and was attended by representatives from the EPA, GDNr, COE (Savannah District), Georgia Attorney General's Office, Georgia State University, Jekyll Island Authority, and Georgia Ports Authority. The minutes of this meeting were summarized in a subsequent GDNr letter (memorandum) dated May 2, 1988, which was provided to attendees. The minutes included a list of attendees and an agenda. Some of the points presented in the minutes were:

- The GDNr preferred that EPA provide a Supplemental EIS for the Brunswick Harbor FEIS to address beach nourishment as an option to ocean disposal. Alternatively, addressing beach nourishment in EPA's "record of decision" for the present FEIS was suggested.

- The GDNr wanted assurance that designation of the Brunswick Harbor ODMDS would not preclude beach nourishment.

- The Georgia Ports Authority indicated that they were interested in the site being designated for ocean disposal.

- The GDNr was requesting beach disposal for materials dredged from the bar channel of Brunswick Harbor.

- The Savannah COE indicated that the purpose of the FEIS was for ocean disposal, not nearshore shallow disposal, i.e., beaches and subtidal areas. Environmental impacts could be greater in nearshore areas. The COE also indicated that site designation is not related to site use since such use would continue if feasible.

Note.—The site's present status is interim, EPA-approved for an indefinite period of time.

- The GDNr had a problem with "beach designation" due to the nature of dredged materials and beach disposal methods. The GDNr also requested the opportunity to provide EPA with "some language" for the Brunswick Harbor Rulemaking to discuss alternative uses

for suitable dredged material (beach nourishment) at Jekyll, St. Simons and Sea Islands.

- EPA indicated that the State would have the opportunity to review the Rules before publication; the proposed draft Rule would be sent for comment prior to publication in the Federal Register.

- The GDNr would recommend to GDNr Commissioner Ledbetter that he request EPA Administrator Greer Tidwell to adopt broad rules so as not to preclude beach nourishment for dredged material from the bar channel.

- Glynn County (GA) beach nourishment was discussed by the Georgia State University.

EPA responses to several of these issues were provided in the meeting. EPA offers the following statements to clarify or expand meeting comments:

- Site designation, by itself, does not authorize any dredging or on-site dumping of dredged material. It does provide an environmentally acceptable site for ocean disposal of suitable dredged material once the COE issues a MPRSA permit and EPA concurs with that permit issuance. Because designation does not authorize site use, non-ocean disposal options are not included or are only briefly discussed in ODMDS EISs. However, non-ocean alternatives such as beach nourishment can be explored for each dredging project. If relevant to the project, such options should be discussed at the dredging project level, as opposed to the ODMDS designation level, by the applicant. Consequently, EPA will not develop a Supplemental EIS to the Brunswick Harbor FEIS and is not proposing a beach nourishment option in the Brunswick Harbor Rulemaking (i.e., in this Proposed Rule and in the subsequent Final Rule leading toward site designation). EPA can review proposed beach nourishment options under its project capacity pursuant to NEPA and section 309 of the Clean Air Act as well as under section 404 permit reviews of the Clean Water Act. EPA concurrence or non-concurrence with beach nourishment projects is made on a case-by-case basis.

- EPA does not prepare a Record of Decision (ROD) per se for ODMDS EISs, although the Final Rulemaking Notice fills the same role as the ROD required under regulations promulgated by the Council on Environmental Quality for agencies subject to NEPA.

- Any designation of ODMDSs allows for disposal of dredged material in offshore waters (three miles or more) and for disposal of dredged material within the territorial sea when that dredged material is not to be used for

the purpose of fill. In both cases, the actual disposal operation is governed by a permit, issued by the COE pursuant to section 103 of MPRSA. Disposal of dredged material for the purpose of fill, within the territorial sea, is governed by the 404 permitting process. Such discharge would be considered as more of a use for dredged material (nourishment of beaches or the subtidal sand transport system) as opposed to disposal of dredged material, and would only involve beach-compatible material. Nourishment of subtidal areas would require these areas to be free from live (hard) bottom communities before any deposit would be appropriate.

- ODMDSs that have been approved by EPA on an interim basis, such as the Brunswick Harbor ODMDS, can continue to be used prior to site designation on a permanent basis, such as is being proposed for the Brunswick Harbor site, unless the interim status expires and is not renewed before permanent designation. The Brunswick Harbor ODMDS is classified as an EPA-approved, interim site for an indefinite period of time. This designation process is to be completed for all interim ODMDSs by October 1991.

- EPA accepted comments on the FEIS during the 30-day FEIS review period and addressed them in this Proposed Rule. Similarly, EPA will accept public comments on the Proposed Rule during its 30-day review period and will address them in the Final Rule. Regarding the review of draft Rules, it was the intent of EPA comments at the GDNR meeting on April 12, 1988, to provide all attendees with the draft version of the Proposed Rule. (Savannah COE also subsequently requested a draft copy per a post-meeting telephone conversation and also made status follow-ups). Receipt of comments was accomplished prior to this Federal Register publication of the Proposed Rule. Comments on the draft Proposed Rule were retained in the project file and were considered during development of this Proposed Rule, but are not formally discussed herein. Copies of the draft version of the Final Rule are available upon request. Any written comments on the draft Final Rule will also be considered but not formally discussed in the published Final Rule. Written and substantive oral comments will be documented in the file. It should be emphasized that the GDNR, other agencies, and the public are free to discuss the proposed designation with EPA.

In addition to the two above-referenced GDNR letters, the GDNR also provided a letter dated April 22, 1988. This letter enclosed a GDNR narrative

which the GDNR suggested for inclusion in the preamble of the Brunswick Harbor Rulemaking. The GDNR narrative is as follows:

The Department of Natural Resources of the State of Georgia has objected to the final EIS on the grounds that it fails to consider the alternative of placing material dredged from the bar channel of the Brunswick Harbor on the beaches or in the nearshore area, so that such material will remain within the sand-sharing system.

EPA has not revised the final EIS to address this concern for two reasons. First, the beaches or nearshore areas would not be an appropriate site for designation as an ocean disposal site, since only those materials which are tested and found to be suitable for the purpose should be placed on or near beaches. Secondly, the beaches and nearshore areas could be used as sites for disposal of suitable material dredged from the bar channel without being designated as alternative sites for ocean disposal. The review of a proposal to place dredged material on the beaches or nearshore areas could be conducted as part of the Section 404 review of the harbor dredging or as an independent beach nourishment project. Such a project would be reviewed on its own merit, without the need for review or permitting under the ocean dumping regulations and criteria.

EPA recognizes the Georgia concern to minimize the adverse impacts to Georgia beaches which are an unintended result of the maintenance of Brunswick Harbor. However, the final Environmental Impact Statement on the Brunswick Harbor, Georgia, Ocean Dredged Material Disposal Site Designation is not the proper document to address such concerns.

EPA responded to the April 22 letter with a letter dated May 13, 1988. This response indicated that the State would have an opportunity to review the draft version of the Proposed Rule. Completion was expected in June 1988.

Regarding the suggested GDNR language, EPA believes most of it, but not all of it, is consistent with EPA's position on ODMDSs. The first paragraph is consistent in the sense that it defines the State's concerns in the form of a review comment, which is encouraged under NEPA. As stated previously, however, EPA does not believe that non-ocean alternatives should be developed in an ODMDS designation EIS (instead, relevant non-ocean disposal options should be developed at the project level). The second paragraph is generally consistent. However, to amend an earlier EPA meeting statement (GDNR April 12 meeting) and/or GDNR interpretation (GDNR April 22 letter), EPA wishes to note that beach nourishment may require a NEPA document or may be part of a NEPA document in addition to section 404 permitting. Designation of an inshore ODMDS is also possible for disposal of dredged material, not to be

used for the purpose of fill. EPA would use the same process for designating any future inshore site that it is using to designate this particular offshore site. EPA does not believe that the first sentence of the third paragraph ("EPA recognizes the Georgia concern to minimize the adverse impacts to Georgia beaches which are an unintended result of the maintenance of Brunswick Harbor") is consistent with EPA's ODMDS position since ODMDS designation does not, by itself, authorize any dredging. The last sentence of the paragraph is consistent with EPA's position on ODMDSs.

C. Coastal Zone Management Coordination

The State of Georgia does not have an approved Coastal Zone Management Plan; however, EPA has determined that this site designation is consistent with general coastal zone management practices.

D. Endangered Species Coordination

Pursuant to section 7 of the Endangered Species Act, the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) were asked by EPA to concur with EPA's conclusion that this site designation will not affect the endangered species under their jurisdictions. By letter dated July 2, 1986, the FWS concurred with the conclusion that this site designation will have no effect on federally-listed threatened or endangered species under the FWS jurisdiction. By letter dated May 1, 1987, the NMFS concurred that the site designation will not affect the endangered or threatened species under NMFS jurisdiction.

E. Proposed Site Designation

The proposed site is located southeast of Brunswick, Georgia, approximately 6 nautical miles (nmi) offshore and occupies an area of about 2 square nautical miles (nmi²). The site is rectangular, approximately 1 nmi by 2 nmi. Water depths within the area average 9 meters. The correct coordinates of the Brunswick Harbor site proposed for final designation are as follows:

31°02'35" N., 81°17'40" W.;
31°02'35" N., 81°16'30" W.;
31°00'30" N., 81°16'30" W.;
31°00'30" N., 81°17'42" W.

The above last coordinate component, 81°17'42" W., is a slight modification of the 81°17'42" W. coordinate component presented (apparently in error) in 40 CFR 228.12(a)(3) (Revised as of July 1, 1984 and 1987) for the interim Brunswick Harbor ODMDS.

(Note: The draft EIS and the final EIS cited the correct coordinates (as above) but incorrectly referenced the *Federal Register* Vol. 42, No. 7 dated 11 January 1977, since that *Federal Register* presented (apparently in error) the last coordinate component as 81°16'30" W. (page 2485) as opposed to 81°17'42" W.).

F. Regulatory Requirements

Pursuant to the Ocean Dumping Regulations, 40 CFR Part 228, five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to prevent any temporary perturbations associated with the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf and other sites that have been historically used are to be chosen. If, at any time, disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. The proposed site conforms to the five general criteria, except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the EIS, that no environmental benefit would be obtained by selecting a site off the Continental Shelf instead of that proposed in this action.

The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists the 11 specific criteria used in evaluating a proposed disposal site to assure that the general criteria are met. Application of these 11 criteria constitutes an environmental assessment of the impact of disposal at the site. The characteristics of the proposed site are reviewed below in terms of these 11 criteria.

1. *Geographical position, depth of water, bottom topography, and distance from coast* (40 CFR 228.6(a)(1)).

The boundary coordinates of the site are given above. The proposed site is located about 6 nmi southeast of Brunswick, Georgia. The site is rectangular, approximately 1 nmi by 2 nmi. The bottom topography is featureless with a gentle slope downward to the south and east. Water depth in the area averages 9 meters.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases* (40 CFR 228.6(a)(2)).

The nearshore coastal area off Brunswick Harbor is used as a breeding, spawning and nursery area for many important species. The distance of the

proposed site to shore (6 nmi) minimizes the effect of disposal at the site on breeding, spawning and nursery activities. Site environmental studies cited in the EIS indicate no detectable effects to living species within or around the site. Shrimp and finfish seasonally migrate through the area. However, the migration patterns are not limited to the disposal site vicinity and the proximity of the site to shore should not impede the migration of any species into the estuary.

3. *Location in relation to beaches and other amenity areas* (40 CFR 228.6(a)(3)).

The major beaches in the area are St. Simons Island and Jekyll Island. These beaches lie to the north and south of the harbor entrance channel, respectively. Considering the distance (6 nmi) that the proposed disposal site is offshore of beach areas, dredged material disposal at the site is not expected to have had an effect on the recreational uses of these beaches, although some tidal effects are possible. There are no fish havens or artificial reefs in the vicinity of the site.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any* (40 CFR 228.6(a)(4)).

Dredged material is generated in the Brunswick area from maintenance of the Brunswick Harbor channel system. In the past an annual average of 0.6 million cubic yards of the entrance channel material has been disposed in the ocean. These materials have consisted of fine to very fine sands with some silt and shell hash. These sediments have been dredged and transported to the disposal site by means of a hopper dredge. Future disposal at the site will presumably be similar to that of past disposal. However, each disposal plan must be evaluated on a case-by-case basis to ensure that ocean disposal is the best alternative and that the material meets the Ocean Dumping Criteria in 40 CFR Part 227.

5. *Feasibility of surveillance and monitoring* (40 CFR 228.6(a)(5)).

Due to the proximity of the site to shore, surveillance and monitoring will not be difficult. Survey vessels, dredges or aircraft overflights are feasible surveillance methods. Environmental studies relative to the EIS have been conducted at the site to establish baseline conditions. Future monitoring at the site will consist of at least periodic bathymetric surveys. A Memorandum of Understanding (MOU) between EPA/Region IV and the South Atlantic Division of the COE is being developed and is to establish a

monitoring framework for ODMDSs in the Region, which is to lead toward a site-specific monitoring plan for the Brunswick Harbor ODMDS.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area including prevailing current direction and velocity, if any* (40 CFR 228.6(a)(6)).

The dispersal characteristics of the proposed site are evident in that no long-term mounding has occurred from site use within 20 years. No dispersion patterns have been detected so that sediments may be dispersed in all directions over time. Predominant nearshore currents move to the south in the summer and to the north in the winter. Primarily tidal but also nearshore currents influence the waters of the area. Prevailing wind patterns, as suggested by sea-bed drifter release and return data, appear to influence currents.

Presumably, the majority of the dredged material sinks rapidly to the bottom during disposal via entrainment and considering the relatively shallow depths of the site (average 9 meters). However, some transport of dredged material in the water column will occur in the form of a turbidity plume. Fine material in such plumes is expected to disperse and dilute rather rapidly.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects)* (40 CFR 228.6(a)(7)).

Site environmental studies cited in the EIS have detected no significant adverse effects from previous disposal operations in terms of water quality, finfish and shellfish species and abundance, and benthic community diversities and densities.

Short-term effects attributed to site use include: water quality changes, smothering of benthic species, and possible mounding of dredged material. Water quality parameters would likely rather rapidly return to ambient levels following disposal operations through dispersion/dilution. Studies have shown no significant adverse water quality effects. The ability of the benthos to recolonize in similar sediments results in only short-term benthic disturbances. Long-term mounding from previous site use has not been detected through high-resolution profiling before and after disposal operations.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean* (40 CFR 228.6(a)(8)).

Shipping and recreational and commercial fishing do occur in the vicinity of the proposed site. Past intermittent use of the site for disposal operations are not known to have interfered with the shipping activities in and out of Brunswick Harbor and therefore has not substantively contributed to congestion within the shipping channels.

Effects on commercial or recreational fishing due to past use of the site have presumably been limited since the proposed site represents a small portion of the total fishing area in the Brunswick vicinity and EIS studies have shown no major differences in finfish and shellfish species and numbers within versus adjacent to the site.

No mineral extraction, desalination, fish or shellfish culture or other scientific use of the ocean is known to occur in the vicinity of the site. Potential future mineral exploration or extraction would be difficult directly on site, although no long-term mounding of dredged material has been evident and the ODMDS has a relatively small area (2 nmi²).

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys (40 CFR 228.6(a)(9)).*

Investigations of previous disposal effects indicated no significant adverse effects on water quality parameters such as dissolved nutrients, trace metals, dissolved oxygen, and pH. Freshwater runoff from several Georgia coastal rivers results in varied salinities and high turbidities in the nearshore region. Trace contaminants in the water column are within or below ranges noted elsewhere along the coast. Concentrations for most metals, PCBs, and pesticides tested were low or below detection limits.

Fish and shrimp dominate the nekton community adjacent to the proposed site.

The bottom sediments at the proposed site are fine- to medium-grained sands. Comparison of pollutant content of these sediments with other data near the site and elsewhere along the coast indicated that the site's sediments are not considered polluted. The benthic infaunal community is characteristic of coastal medium-to-coarse sands.

10. *Potentiality for the development or recruitment of nuisance species in the disposal site (40 CFR 228.6(a)(10)).*

It is unlikely that use of the proposed site will result in the development or recruitment of any nuisance species. Past disposal operations have apparently not led to development or recruitment of nuisance species. Algal stimulation is not probable since

dredged material likely to be disposed on site would be low in organic and nutrient concentrations. Benthic assemblages and demersal fish populations were not found to be substantially different due to disposal operations.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance (40 CFR 228.6(a)(11)).*

No historical features are known to exist within the proposed site.

G. Site Management

Site management of the Brunswick Harbor ODMDS is the responsibility of EPA as well as the COE. The COE issues permits to private applicants for ocean disposal; however, EPA/Region IV assumes overall responsibility for the Brunswick Harbor site management. As indicated previously, an MOU between EPA/Region IV and the South Atlantic Division of the COE is being developed and is to establish a monitoring framework for ODMDSs in the Region, which is to lead toward a site-specific monitoring plan for the Brunswick Harbor ODMDS.

Site management may include strategically locating and/or orienting dredged material within the site boundaries relative to predominant current patterns. Monitoring could involve sediment mapping of disposed material to determine any movement of material off of the site. Determination of the significance of any biological impacts of dredged material outside the ODMDS boundaries would then be appropriate.

The existence, magnitude, and implementation of a site monitoring plan is dependent upon available funding and coordination between EPA and the COE.

H. Proposed Action

The EIS concludes that the proposed site may appropriately be designated for use. The proposed site is compatible with the general criteria used for site evaluation.

The designation of the Brunswick Harbor site as an EPA-approved ODMDS is being published as Proposed Rulemaking. Overall management of this site is the responsibility of the Regional Administrator of EPA/Region IV.

It should be emphasized that, if an ODMDS is designated, such a site designation does not constitute EPA's approval of actual disposal of material at sea. Before ocean dumping of dredged material at the site may commence, the COE must evaluate a permit application according to EPA's Ocean Dumping Criteria. EPA has the right to disapprove the actual dumping if it determines that

environmental concern under the Act have not been met.

The Brunswick Harbor ODMDS is not restricted to disposal use by Federal Projects; private applicants may also dispose suitable dredged material at the ODMDS once relevant regulations have been satisfied. This site is restricted, however, to suitable dredged material from the greater Brunswick, Georgia vicinity.

I. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules that may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the designation will only have the effect of providing a disposal option for dredged material. Consequently, this Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of \$100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this Rule does not necessitate preparation of a Regulatory Impact Analysis.

This Proposed Rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: September 20, 1988.

Approved by:

Lee A. DeHihns, III,

Acting Regional Administrator.

In consideration of the foregoing, Subchapter H of Chapter I of Title 409 is proposed to be amended as set forth below.

PART 228—[Amended]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Part 228 is proposed to be amended by removing from § 228.12(a)(3) the words and coordinates:

Brunswick Harbor—Atlantic outlet, Ga., St. Simons Sound, Brunswick Harbor Bar Channel, maintenance dredging disposal area 1 nautical mile wide by 2 nautical miles long

adjacent to the channel located on the south side of the entrance and being 6.6 nautical miles from shore at a point of beginning at 31°02'35" N. and 81°17'40" W., thence due east to 31°02'35" N. and 81°16'30" W., thence due south to 31°00'30" N. and 81°16'30" W., thence due west to 31°00'30" N. and 81°17'40" W., thence due north to the point of beginning.

And adding to § 228.12(b)(41) one ODMDS for Region IV as follows:¹

§ 228.12 Delegation of management authority for interim ocean dumping sites.

(b) * * *

(41) Brunswick Harbor; Brunswick, Georgia; Ocean Dredged Material Disposal Site ——— Region IV.

Location: 31°02'35" N., 81°17'40" W.; 31°02'35" N., 81°16'30" W.; 31°00'30" N., 81°16'30" W.; 31°00'30" N., 81°17'42" W.

Size: 2 square nautical miles.

Depth: Average 9 meters.

Primary use: Dredged material.

Period of use: Continuing use.

Restriction: Disposal shall be limited to suitable dredged material from the greater Brunswick, Georgia vicinity.

¹ (Note.—The last component presented as 81°17'40" W. in § 228.12(a)(3) of the 40 CFR revised as of July 1, 1987, quoted above was apparently in error, per coordination with the COE Savannah District, and should have been 81°17'42" W. as added above in § 228.12(b). This apparent error was also in § 228.12(a)(3) of the 40 CFR revised as of July 1, 1984. Also, page 2485 of 42 FR 2461 (January 11, 1977) listed (apparently in error) the last coordinate component as 81°16'30" W.).

[FR Doc. 88-22190 Filed 9-28-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435, 436 and 440

[BERC-440-P]

Medicaid Program; Eligibility of Aliens for Medicaid

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise Medicaid regulations applicable to aliens who meet eligibility requirements as categorically needy or medically needy. It would establish in the regulations that aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law may be eligible for all Medicaid services. It also would identify those aliens who may be

eligible only for limited services, as a result of recent legislation.

These changes would conform our regulations to section 1903(v) of the Social Security Act, which was added by section 9406 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99-509), and sections 245A, 249, 210 and 210A of the Immigration and Nationality Act which were added or amended by sections 201, 203, 302 and 303 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603). These changes also clarify and identify certain categories for persons permanently residing in the United States under color of law.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, not later than 5:00 p.m. on November 28, 1988.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-440-P, P.O. Box 26676, Baltimore, Maryland 21207.

Please address a copy of comments relating to information collection requirements to: Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Allison Herron, Room 3208, New Executive Office Building, Washington, DC 20503.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC, or
Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-440-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Marinos Svolos, (301) 966-44451.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicaid program provides health care coverage to individuals who are receiving cash assistance under the Aid to Families with Dependent Children (AFDC) program, the Supplemental Security Income program (SSI) or other State assistance programs, as categorically needy or optional

categorically needy. At State option, certain other persons who meet the categorical qualifications except for income and resource levels (the medically needy) are also eligible. The Medicaid law, title XIX of the Social Security Act (the Act), before the passage of recent legislation, did not explicitly include a citizenship requirement as a basis of entitlement to benefits. However, the AFDC program, in section 402(a)(33) of the Act, and the SSI program, in section 1614(a)(1)(B) of the Act, both limit eligibility to permanent residents or to those permanently residing in the United States under color of law (PRUCOL). Our existing regulations at 42 CFR 435.402 and 436.402 require a State or Territory to provide Medicaid to otherwise eligible residents who are citizens or aliens lawfully admitted for permanent residence or PRUCOL, including any alien who is lawfully present in the United States under section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act (INA).

There proposed regulations clarify the definition of what is meant by PRUCOL for the purpose of determining the eligibility for Medicaid of aliens claiming such a status. This clarification is based on two court decisions and provisions included in the Omnibus Budget Reconciliation Act of 1986 (OBRA 86). In *Berger v. Secretary*, No. 76c 1420 (E.D.N.Y. June 13, 1978), the Secretary consented to define aliens who were residing in the United States with knowledge and permission of the Immigration and Naturalization Service, (INS) and whose departure the INS did not contemplate enforcing, as permanently residing in the United States under color of law and, thus, potentially eligible for SSI benefits. A later District Court order, *Berger v. Schweiker*, CV-76-1420 (E.D.N.Y. July 26, 1984), set out specific criteria for determining if an alien is permanently residing in the United States under color of law. The court order provided that aliens residing in the United States with the knowledge and permission of the INS and whose departure the INS does not contemplate enforcing are aliens permanently residing in the United States under color or law for SSI purposes.

Under the terms of the 1984 district court order, the INS will not be considered as contemplating enforcing an alien's departure if it is the policy or practice of the INS not to enforce the departure of aliens in the same category or if, from all the facts and circumstances in a particular case, it

appears that the INS is permitting the alien to reside in the United States indefinitely. The court order also listed certain categories of aliens as examples of categories which meet the PRUCOL definition. The court order required that regulations and operating instructions contain its criteria for color of law determinations and the specified categories of aliens who are considered PRUCOL. On appeal, the United States Court of Appeals for the Second Circuit, in *Berger v. Heckler*, 771 F. 2d 1556 (1985), affirmed the District Court order, except that it did not require the Secretary to use the exact language specified by the District Court. Although the suit involved SSI, we decided that for Medicaid eligibles we would adopt the court's decision. We have also decided to adopt much of the language provided by the District Court, as it gives the most specific guidance on how the court's holding is to be interpreted. Because under the courts' order, more aliens will meet the definition of PRUCOL than under current regulations, more aliens may now be eligible for benefits if they meet all other requirements for eligibility.

A New York District Court, in *Lewis v. Gross*, No. CV-79-1740 (E.D.N.Y., July 14, 1986), has held that our citizenship and alienage requirements go beyond the Secretary's scope of authority delegated under the Medicaid statute. The court reasoned that Congress "knew how to impose alienage requirements on social welfare programs when it intended, and its refusal to impose such a requirement on Medicaid should be respected" (slip op. at 54). Because the AFDC and SSI statutes do include explicit exclusions of certain classes of aliens, the result of this decision is that, in this court's jurisdiction, otherwise qualified aliens who, except for citizenship, would be eligible for Medicaid as non-cash beneficiaries—i.e., medically needy or optional categorically needy individuals—must be found entitled to Medicaid coverage.

In response to the *Lewis* opinion, Congress added a new section 1903(v) of the Act which provides that individuals who are permanently residing in the United States under color of law (PRUCOL) may receive Medicaid. Section 1903(v) of the Act also provides emergency services to individuals unable to meet the PRUCOL definition if they otherwise meet the Medicaid eligibility requirements. To comply with Congressional direction concerning PRUCOL, we have adopted for all Medicaid applicants the *Berger* description of PRUCOL, including the immigration categories found in that

decision. The description of PRUCOL is the same one used by SSA in administering the SSI program. This interpretation does not include, except where specifically provided in regulations, applicants for any immigration status. This has the advantage of using a consistent interpretation of what is meant by "permanently residing in the United States under color of law" in administering both SSI and Medicaid. (OBRA 86 also added a provision to permit certain additional aliens to receive emergency services. We discuss this provision under section II of the preamble.)

II. New Legislation

A. Omnibus Budget Reconciliation Act of 1986

Section 9406 of the Omnibus Budget Reconciliation Act of 1986 (OBRA86), Pub. L. 99-509, adds a new section 1903(v) to the Act and requires that no payment be made to a State under title XIX of the Act for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under the color of law, except in situations where the alien would otherwise meet the eligibility requirement for medical assistance under the Medicaid State plan and has an emergency medical condition. Section 1903(v)(3) of the Act defines "emergency medical condition" to mean "a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: Placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part". The costs of hospital or other provider delivering necessary services covered under the Medicaid State plan to aliens with emergency medical conditions are allowable under Medicaid so long as the alien would otherwise meet the applicable income, resource, and eligibility requirements under the State Medicaid plan (except for receipt of a cash payment under AFDC, SSI or State Supplemental program). This provision is effective January 1, 1987.

B. Immigration Reform and Control Act of 1986

The Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603, amended the Immigration and Nationality Act (INA) and establishes a

number of new categories of aliens eligible for Medicaid. The particular sections which expand coverage to aliens and affect our regulations are discussed below:

1. Legalization of Status

Section 201 of the IRCA adds a new section 245A to the Immigration and Nationality Act (INA) [8 U.S.C. 1255A] which permits certain aliens who are living in the United States in an unlawful status to apply for legalization of their status (temporary residence status). Although some aliens eligible for legalization are in immigration categories that qualify under our existing regulations as PRUCOL, most are not. However, section 245(A)(h)(3)(A)(iii) of the INA provides that for the purpose of establishing Medicaid eligibility aliens granted temporary residence status will be considered PRUCOL. While such legalized aliens may be eligible for Medicaid if they meet the requirements of the State's plan, the INA restricts the Medicaid services some legalized aliens may receive. These restrictions are discussed later in the preamble.

To be eligible to participate in the legalization program, an alien must have entered the United States before January 1, 1982 either unlawfully or with non-immigrant visas which expired before January 1, 1982, and must have lived in the United States in an unlawful status continuously since January 1, 1982. An alien living unlawfully in the United States could apply for legalization during the 12 month period beginning May 5, 1987 and had to establish to the satisfaction of the INS that he or she met the conditions for legalization set forth in the law. Immigration and Naturalization Service regulations published on May 1, 1987 at 52 FR 16190 specify the procedures and conditions under which certain aliens may obtain legalized status.

In general, section 245A(h) of the INA provides that aliens who are granted lawful temporary resident status who may later be adjusted to lawful permanent resident status (referred to herein as legalized aliens) under the INA, as discussed above, are disqualified from programs of financial assistance, medical assistance under title XIX and assistance under the Food Stamp Act of 1977, for 5 years from the date the alien is granted lawful temporary resident status. For the purpose of providing Medicaid eligibility to such aliens, the 5 year disqualification for programs of medical assistance is effectively removed by section 245A(h)(3) of the INA. Although

the 5 year disqualification from eligibility for Medicaid is removed, eligible legalized aliens who are not members of the following exempt groups may only receive emergency and pregnancy related services, as defined in section 245(h)(3)(B) of the INA.

The exempt groups consist of Cuban-Haitian entrants, aged, blind or disabled individuals as defined in section 1614 of the Act, and children under 18 years of age. These exempt aliens may receive all of the services provided by a State's plan if otherwise eligible for Medicaid.

Section 245A(b)(2) of the INA provides that if by the thirty-first month after the date an alien is granted temporary resident status an application for adjustment of status of permanent residency has not been filed, the alien will revert to illegal status. If such an alien can establish PRUCOL status, Medicaid eligibility may continue. (The fact that an alien has adjusted status under section 245A, 210 or 210A of the INA does not in itself convey PRUCOL status). Otherwise, the alien may only receive emergency services, including emergency labor and delivery services, available to illegal aliens as provided by section 1903(v) of the Act.

2. Cuban/Haitian Adjustment

Section 202 of IRCA permits Medicaid eligibility of Cuban/Haitian entrants as defined in section 501(e)(1) and (2)(A) of Pub. L. 96-422, if they apply for adjustment within two years of the date of enactment of IRCA and they have been continuously residing in the United States since before January 1, 1982 and are otherwise eligible for an immigrant visa. These aliens, if they meet Medicaid eligibility requirements, will be eligible for Medicaid and will not be subject to any of the limitations imposed by IRCA on other newly legalized aliens as discussed below.

3. Updating Registry Date to January 1, 1972

Section 203 of IRCA amended section 249 of the INA (8 U.S.C. 1259) by updating the registry date from June 30, 1948 to January 1, 1972. Section 249 now provides that aliens who can establish that they have been continuously residing in the United States since before January 1, 1972 are presumed by INS to meet certain criteria for lawful permanent residence. In the absence of contrary evidence and until such time

these individuals are granted lawful permanent residence by INS, they may be considered to be permanently residing in the United States under the color of law for Medicaid purposes. These aliens, if they meet Medicaid eligibility requirements, will be eligible for Medicaid but will not be subject to any of the limitations imposed by IRCA on other newly legalized aliens as discussed below.

4. Lawful Residence for Certain Special Agricultural Workers

Section 302 of IRCA adds a new section 210 to the INA (8 U.S.C. 1160) which permits lawful temporary resident status to be granted to aliens who have resided in the United States and performed seasonal agricultural work in the United States for at least 90 days during the 12 month period ending May 1, 1986. Such individuals must apply during the 18 month period beginning June 1, 1987 and must be otherwise admissible as immigrants. Aliens lawfully admitted for temporary residence under this section are to be regarded as aliens lawfully admitted for permanent residence for purposes of laws other than immigration. Although section 210(a)(5) of the INA specifies that generally aliens legalized under this section will be considered lawful permanent residents, the eligibility of these aliens for Medicaid is restricted by section 210(f) of the INA.

We are interpreting section 210(f) to permit special agricultural workers (SAWs) to establish Medicaid eligibility on the same basis as aliens legalized under section 245A of the INA. This means that a SAW will, if otherwise eligible, receive Medicaid if he or she is aged, blind, or disabled, a Cuban-Haitian entrant or under 18 years of age. If the SAW would be eligible for AFDC, but for the 5 year ban to AFDC imposed by IRCA, that SAW may only receive the limited services provided to persons in the same circumstances legalized under section 245A of the INA. Under this interpretation of section 210(f) of the INA, even though a legalized alien is eligible for Medicaid, if that alien would be eligible for AFDC the Medicaid services that aliens may receive are specifically restricted for 5 years to emergency and pregnancy related services.

5. Replenishment Agricultural Workers

Section 210A of the INA was added by section 303 of IRCA (8 U.S.C. 1161). This provision permits the admission of additional agricultural workers to replace individuals who leave agricultural labor and to alleviate a shortage of agricultural workers. The Secretaries of Labor and Agriculture are authorized, beginning October 1, 1989, to determine whether a shortage of agricultural workers exists and the number of additional aliens to be admitted to meet the shortage. The determination will be made based on a formula set forth in section 210A. In accordance with section 210A(d)(6) of the INA, for purposes of Medicaid eligibility, aliens admitted under section 210A of the INA will be treated the same as aliens legalized under section 245A. The same exemptions and restrictions will apply.

6. Medicaid Eligibility

To be eligible for Medicaid an alien must make application and be either a lawful permanent resident or permanently residing in the United States under color of law (PRUCOL). For this purpose aliens legalized under sections 245A, 210 and 210A of the INA, that status not having changed, are considered PRUCOL so long as they remain in legal temporary or permanent resident status. The alien applicant must also meet other categorical and financial requirements for eligibility under the State's approved plan. Other aliens who are neither lawful permanent residents nor PRUCOL but who otherwise meet the eligibility requirements of the State's plan are not eligible for Medicaid but may receive emergency services (including emergency labor and delivery) as described in the preamble under section A. However, no legalized alien under IRCA will be Medicaid eligible if a citizen would not be Medicaid eligible in the same circumstances.

7. Summary

The following chart illustrates the categories of aliens who under current regulations and prior laws were not eligible for Medicaid and who may now become eligible for Medicaid and who may now become eligible provided they meet all other requirements for eligibility.

MEDICAID COVERAGE FOR SELECTED CATEGORIES OF INDIVIDUALS BEFORE AND AFTER THE 1986 PUBLIC LAW CHANGES

Categories	Eligibility for medicaid coverage	
	Before	After
Medicaid-eligible ¹ and—		
(a) Lawful permanent resident or citizen or permanently residing in the U.S. under color of law (including aliens under section 249 of the INA).	Yes, full coverage	Yes, full coverage.
(b) Alien legalized under sections 245A, 210 and 210A of the INA:		
Under 18	No	Yes, full coverage
Blind/disabled	No	Do.
Cuban/Haitian entrants ²	Yes	Do.
Others	No	Yes, but for five years from the date granted lawful temporary resident status, that status not having changed, only for emergency and pregnancy related services.
(c) Alien not eligible for legalization (i.e., illegal aliens and temporary visitors, workers, others not described above).	No	Yes, but only for emergency services (including emergency labor and delivery) as defined in section 1903(v) of the Social Security Act.

¹ I.e., the applicant meets the State Medicaid program's income, asset and other criteria for eligibility.

² Cuban-Haitian entrants are treated as a special case by IRCA. Cuban-Haitian entrants may be PRUCOL under section 1903(v) of the Act or may adjust status under sections 201, 202 or 302 of IRCA.

C. Verification of Immigration Status of Aliens Applying for Benefits and State Legalization Impact-Assistance Grants

Two other provisions of the IRCA affect the Medicaid program. Section 121 of the IRCA added the Verification of Immigration Status of Aliens Applying for Benefits Under Certain Programs. Effective October 1, 1988, any alien applying for Medicaid must, as a condition of eligibility, declare in writing under penalty of perjury whether he or she is a citizen of the United States or is in a satisfactory immigration status and submit supporting documentation. In addition, this provision requires States to put in place a process that uses the Immigration and Naturalization Service (INS) System for Alien Verification for Entitlement (SAVE) to verify that an alien is eligible for benefits for certain entitlement programs (AFDC, Medicaid, Unemployment Compensation, Food Stamps, Housing Assistance, and Title IV Educational assistance), by October 1, 1988. States will use the INS information to verify the alleged satisfactory immigration status of an alien applicant. This requirement may be waived by the Secretary if the State has an alternative system of verification which is as effective and timely as INS/SAVE, and is as cost effective and provides at least the hearing and appeal rights recipients would have under SAVE. We are issuing separate regulations on this provision.

On March 10, 1988, the Department published final regulations implementing IRCA section 204, which appropriates funds for fiscal years 1988 through 1991, to reimburse the States for some of the costs of providing public assistance, public health assistance, and educational services to certain aliens

whose status is adjusted under IRCA (53 FR 7832-7864).

III. Provisions of the Proposed Rule

We propose to incorporate the OBRA 86 and IRCA provisions into our regulations essentially without interpretation. Due to the availability of only limited services to some of the aliens, modifications have been made to appropriate sections as described below. The proposed revisions of the regulation are discussed below.

In § 435.1, Introduction, which provides a brief explanation of the effect of certain laws on Medicaid eligibility, we would add a new paragraph (f) to specify that as a result of a provision in Pub. L. 99-509, States, effective January 1, 1987, must furnish emergency (including emergency labor and delivery) services to aliens. A new paragraph (g) would be added to specify that, as a result of provisions in Pub. L. 99-603, Medicaid is available to aliens granted temporary resident status who meet the eligibility requirements of the State plan. Some eligible legalized aliens, however, will only be eligible for limited services for 5 years from the date lawful status is granted.

Sections 435.3, Basis, and 436.2, Basis, would be revised to add in chronological order new public law citations of the OBRA 86 and IRCA provisions.

We would add four new sections: § 435.139 under subpart B, Mandatory Coverage of the Categorically Needy; § 435.350 under Subpart D, Optional Coverage of the Medically Needy; § 436.128 under Subpart B, Mandatory Coverage of the Categorically Needy (in the territories); and § 436.330 under Subpart D, Optional Coverage of the Medically Needy (in the territories). Each section is entitled, Coverage of

certain qualified aliens. Each section would identify the different groups of aliens and describe the services available to each group. Each section would also (as provided by law) require that emergency services and/or pregnancy related services be provided to eligible legalized aliens who meet the eligibility requirements under the State plan; and that the agency provide services necessary for the treatment of an emergency medical condition (including emergency labor and delivery) to illegal aliens who, although ineligible for Medicaid, would, but for their immigration status, meet the eligibility conditions for Medicaid under the State's approved plan. Aliens eligible for full Medicaid coverage are also identified.

Current regulations at 42 CFR 435.402 and 436.402 dealing with citizenship and alienage describe "permanently residing under color of law" (PRUCOL) to cover refugees admitted under section 207 of the Immigration and Nationality Act and parolees under section 212(d)(5) of the Immigration and Nationality Act. The regulations have been interpreted to include aliens who, pursuant to section 249 of the INA, entered and have continuously resided in the United States since before June 30, 1948. We would delete existing §§ 435.402 and 436.402, move their content to new §§ 435.406 and 436.406, and expand those sections as discussed below to clearly apply them to specific immigration status under the INS law as a basis for determining PRUCOL.

New §§ 435.406(a) and 436.406(a) would restate current requirements that an agency must provide Medicaid to eligible residents of the United States who meet the citizenship and alienage requirements. These sections would also

provide that individuals granted lawful temporary residence status or lawful permanent residence status under IRCA can establish immediate Medicaid eligibility for full benefits only if the individual is aged, blind, or disabled as defined in section 1614 of the Act, under 18 years of age, or a Cuban-Haitian entrant.

Sections 435.406(b) would include the requirements of Pub. L. 99-603 that an agency must provide eligibility for emergency services and services for pregnant women to individuals who have been granted lawful temporary or lawful permanent resident status under IRCA. We would include the requirements of Pub. L. 99-509 in §§ 435.406(c) and 436.406(c) that the agency must provide emergency services (including emergency labor and delivery) to all other aliens otherwise meeting the eligibility requirements of the state's approved plan, including legal non-immigrants under provisions of the Immigration and Nationality Act (e.g., students and visitors).

We would add new §§ 435.408 and 436.408 entitled, Categories of aliens who are permanently residing in the United States under color of law, that would describe the categories of aliens that a State agency may accept as PRUCOL and the documentation that the agency must review to establish that the INS has placed the alien in a category that qualifies him or her for Medicaid consideration.

Under Subpart B, which includes requirements and limits applicable to all Medicaid services, § 440.200, Basis, purpose, and scope, would be revised to include section 1903(v) of the Act and sections 245A and 249 of INA (sections 201 and 203 of Pub. L. 99-603) which specify specific eligibility requirements and standards for aliens.

We would revise §§ 440.210 and 440.220 which identify required services for the categorically needy and medically needy, respectively. We would require that the State plan specify that aliens described in the revised §§ 435.139(a), 435.350(a), 436.128(a) and 436.330(a) (those with lawful temporary or lawful permanent resident status under IRCA) be afforded at least the services provided in proposed § 440.210(a) for the categorically needy and § 440.220(a)(4) for the medically needy, and that, except for those aliens described in paragraph (b) of §§ 435.139, 435.350, 436.128, and 436.330, they are provided limited services specified in § 440.255. (See discussion below for identification of those services.)

As previously discussed in section II of the preamble, section 9406 of OBRA 86 and sections 245A, 210 and 210A of

the INA limit the services available to illegal aliens, legal non-immigrants and eligible legalized aliens, who are not in one of the exempt groups described in the proposed provisions of §§ 435.406(a) and 436.406(a); that is, individuals who are aged, blind or disabled as defined in section 1614 of the Act, Cuban-Haitian entrants or under age 18. We would add a new paragraph (m) to § 440.250, Limits on comparability of services, to require States to limit services to eligible legalized aliens who are not in one of the exempt groups to emergency services and pregnancy related services. We would also add a new paragraph (n) to require States to provide emergency services (including emergency labor and delivery) to individuals who but for their immigration status would be eligible for Medicaid and are not lawful permanent residents, permanently residing in the United States under color of law, or granted lawful status under sections 245A, 210 or 210A of the INA.

In new § 440.255 Emergency services for aliens, we would define those services available to: Illegal aliens and legal non-immigrants as provided by section 1903(v) of the Act, and eligible legalized aliens who are not members of one of the exempt groups as provided by sections 245A, 210 and 210A of the INA. The services described in § 440.255 consist of emergency services including emergency labor and delivery necessary to treat an emergency medical condition, and pregnancy related services. Emergency medical condition is defined as a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: Placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. Pregnancy related services are those described in section 1916(a)(2)(B) of the Act and covered under the approved State plan.

IV. Regulatory Impact Statement

Executive Order (E.O.) 12291 requires us to prepare and publish an initial regulatory impact analysis for any proposed regulation that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in: An annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the

ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, we generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed regulation would not have a significant economic impact on a substantial number of small entities. Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if the proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis also must conform to the provisions of section 603 of RFA. For purposes of the RFA, we treat all providers as small entities.

This proposed rule reflects statutory changes and would only serve to codify in regulations those practices which have already been or will be implemented regardless of the publication of these regulations. The statutory changes expanding eligibility groups and coverage of services will increase Medicaid program expenditures independent of the promulgation of this rule. This rule, in itself, would not effect Medicaid program expenditures.

For these reasons, we have determined that a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities, and would not have a significant impact on the operations of a substantial number of rural hospitals. Therefore, we have not prepared a regulatory flexibility analysis.

V. Paperwork Reduction Act of 1980

Sections 435.1(g), 435.408 and 436.408 of this proposed rule contain information collection requirements that are subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the ADDRESS section of the preamble.

VI. Response to Comments

Because of the large number of comments we receive on proposed regulations, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will

consider all comments and respond to them in the preamble to that rule.

List of Subjects

42 CFR Part 435

Aid to families with dependent children, Grant programs-health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages.

42 CFR Part 436

Aid to families with dependent children, Grant programs-health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands.

42 CFR Part 440

Grant programs-health, Medicaid, 42 CFR Chapter IV would be amended as set forth below:

A. Part 435 is amended as follows:

1. The authority citation for Part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents to Part 435 is amended by adding a new undesignated center heading and new § 435.139 immediately after existing § 435.136 under Subpart B, new § 435.350 is added immediately after existing § 435.340 under Subpart D, § 435.402 is removed and reserved and new §§ 435.406 and § 435.408 are added under Subpart E to read as follows:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

* * * * *

Subpart B—Mandatory Coverage of the Categorically Needy

* * * * *

Mandatory Coverage of Certain Aliens

Sec.

435.139 Coverage for certain qualified aliens.

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Subpart D—Optional Coverage of the Medically Needy

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435.350 Medically needy coverage for certain qualified aliens.

Subpart E—General Eligibility Requirements

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435.402 [Reserved]

* * * * *

435.406 Citizenship and alienage.

435.408 Categories of aliens who are permanently residing in the United States under color of law.

* * * * *

3. In Subpart A, § 435.1 paragraph (a) is revised; new paragraphs (f) and (g) are added as follows:

§ 435.1 Introduction.

(a) This section provides a brief explanation of Medicaid eligibility as affected by changes in the cash assistance programs under the Social Security Act, and by other public laws.

* * * * *

(f) *Changes in Medicaid eligibility for aliens as a result of Pub. L. 99-509.*

Section 9406 of Pub. L. 99-509 added a provision (Section 1903(v) of the Act) that requires States, effective January 1, 1987, to furnish emergency services (including emergency labor or delivery) to aliens who are not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law and who otherwise are eligible for Medicaid. Previously, States were not required to furnish services to such aliens.

(g) *Changes in Medicaid eligibility for aliens as a result of Pub. L. 99-603.* In general, Medicaid eligibility is available to aliens granted lawful temporary resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act who meet the eligibility requirements under the approved State Medicaid plan. Aliens must provide the State agency with documentation that they have been granted lawful temporary or permanent resident status to obtain eligibility under this provision. Even though they would be otherwise eligible under the Medicaid State plan, some aliens granted lawful status under Pub. L. 99-603 are only eligible for limited services for 5 years from the date they are granted lawful temporary resident status.

4. Section 435.3 is amended by reusing paragraph (a) introductory text and adding in chronological order additional law citations to read as follows:

§ 435.3 Basis.

(a) This part implements the following sections of the Act and other public laws which state eligibility requirements and standards:

* * * * *

1903(v) Payment for emergency services under Medicaid provided to aliens.

* * * * *

Pub. L. 99-509, section 9406 Payment for emergency medical services provided to aliens.

Pub. L. 99-603, section 201 Aliens granted legalized status under section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) may under certain circumstances be eligible for Medicaid.

Pub. L. 99-603, section 302 Aliens granted legalized status under section 210 of the Immigration and Nationality Act may under

certain circumstances be eligible for Medicaid (8 U.S.C. 1160).

Pub. L. 99-603 section 303 Aliens granted legal status under section 210A of the Immigration and Nationality Act may under certain circumstances be eligible for Medicaid (8 U.S.C. 1161).

* * * * *

5. In Subpart B, a new undesignated center heading and new § 435.139 are added immediately after § 435.136 to read as follows:

Mandatory Coverage of Certain Aliens

§ 435.139 Coverage for certain qualified aliens.

(a) *Lawful temporary or permanent resident status under the Immigration and Nationality Act (INA).*

(1) The agency must provide services to an alien granted lawful temporary resident status or subsequently granted lawful permanent resident status under sections 245A, 210 or 210A of the INA provided the alien maintains a valid immigration status and meets the eligibility requirements under the State Medicaid plan and is—

(i) An aged, blind, or disabled individual as defined in section 1614(a)(1) of the Act;

(ii) A child under 18 years of age; or

(iii) A Cuban or Haitian entrant as defined in section 501 (e)(1) and (2)(A) of Pub. L. 96-422.

(2) For aliens not described in paragraph (a)(1) of this section, the agency may provide no services other than emergency services and/or pregnancy related services as defined in § 440.255 (a) and (b) of this chapter to an alien for five years after the alien is granted lawful temporary or permanent resident status under sections 245A, 210 or 210A of the INA, provided such alien, but for his or her immigration status, would otherwise be eligible for Medicaid under the State plan.

(b) *Other aliens.* The agency may provide no services other than those necessary for the treatment of an emergency medical condition, as defined in § 440.255(a) of this chapter, to aliens who are ineligible for Medicaid because they are not lawfully admitted for permanent residence, permanently residing under color of law, or granted lawful temporary resident status under sections 245A, 210 or 210A of the INA but who would otherwise have been able to meet the eligibility requirements under the State's Medicaid plan, except for the requirement for receipt of AFDC, SSI or a State Supplementary payment.

6. In Subpart D, a new § 435.350 is added to read as follows:

§ 435.350 Medically needy coverage for certain qualified aliens.

(a) *Medically needy coverage of aliens with lawful temporary or permanent resident status under the Immigration and Nationality Act (INA).*

(1) If an agency provides Medicaid to the medically needy, it must provide services to an alien granted lawful temporary resident status under sections 245A, 210 or 210A of the INA provided the alien maintains a valid immigration status and meets the eligibility requirements under the State Medicaid plan and is—

(i) An aged, blind, or disabled individual as defined in section 1614(a)(1) of the Act;

(ii) A child under 18 years of age; or

(iii) A Cuban or Haitian entrant as defined in section 501 (e)(1) and (2)(A) of Pub. L. 96-422.

(2) For aliens not described in paragraph (a) (1) of this section, the agency may provide no services other than emergency services and/or pregnancy related services as defined in § 440.255 (a) and (b) of this chapter to an alien for five years after the alien is granted lawful temporary or permanent resident status under sections 245A, 210 or 210A of the INA, provided such alien, but for his or her immigration status, would otherwise be eligible for Medicaid under the State plan.

(b) *Other aliens.* If an agency provides Medicaid to the medically needy, it may provide no services other than those necessary for the treatment of an emergency medical condition, as defined in § 440.255(a) of this chapter, to aliens who are ineligible for Medicaid because they are not lawfully admitted for permanent residence, permanently residing under color of law or granted lawful temporary resident status under sections 245A, 210 or 210A of the INA but who would, but for their immigration status, otherwise have been able to meet the eligibility requirements under the State's Medicaid plan, except for the requirement for receipt of AFDC, SSI or a State Supplementary payment.

7. In Subpart E, § 435.402 is removed and reserved.

§ 435.402 [Reserved]

8. A new § 435.406 is added to read as follows:

§ 435.406 Citizenship and alienage.

(a) The agency must provide Medicaid to otherwise eligible residents of the United States who are—

(1) Citizens; or

(2) Aliens lawfully admitted for permanent residence or permanently residing in the United States under color

of law as defined in § 435.408 of this part; or

(3) Aliens granted lawful temporary resident status or lawful permanent residence status under sections 245A, 210 or 210A of the Immigration and Nationality Act if the individual is aged, blind, or disabled as defined in section 1614(a)(1) of the Act, under 18 years of age, or a Cuban/Haitian entrant as defined in section 501 (e)(1) and (2)(A) of Pub. L. 96-422.

(b) The agency may provide no services other than emergency services and services for pregnant women to otherwise eligible residents of the United States not described in paragraph (a)(3) of this section who have been granted lawful temporary or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act for five years from the date lawful temporary resident status was granted.

(c) The agency may provide no service other than emergency (including emergency labor and delivery) services as defined in § 440.255 of this chapter, to aliens not described in paragraphs (a) and (b) of this section who although ineligible for Medicaid would, but for their immigration status, otherwise meet the eligibility requirements for Medicaid under the State's approved plan.

9. A new § 435.408 is added to read as follows:

§ 435.408 Categories of aliens who are permanently residing in the United States under color of law.

This section describes aliens that the agency may accept as permanently residing in the United States under color of law and who may be eligible for Medicaid. The agency reviews as evidence the listed document that the Immigration and Naturalization Service furnishes to aliens in these categories. None of the categories include applicants for an Immigration and Naturalization Service status other than those applicants listed in paragraph (f) of this section or those covered under paragraph (p) of this section, or non-immigrants such as students.

(a) Aliens admitted to the United States pursuant to 8 U.S.C. 1153(a)(7), (section 203(a)(7) of the Immigration and Nationality Act). A copy of INS Form 1-94 endorsed "Refugee-Conditional Entry" is evidence of this status;

(b) Aliens, including Cuban/Haitian entrants, paroled in the United States pursuant to 8 U.S.C. 1182(d)(5) (section 212(d)(5) of the Immigration and Nationality Act). A copy of INS Form I-94 with notation that the alien was paroled pursuant to section 212(d)(5) of the Immigration and Nationality Act is

evidence of this status. For Cuban/Haitian entrants. A copy of INS Form I-94 stamped Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981 is evidence of this status. (Although the forms bear this notation, Cuban/Haitian entrants are admitted under section 212(d)(5) of the Immigration and Nationality Act);

(c) Aliens residing in the United States pursuant to an indefinite stay of deportation. An Immigration and Naturalization Service letter with this information or INS Form I-94 with such a notation is evidence of this status;

(d) Aliens residing in the United States pursuant to an indefinite voluntary departure. An Immigration and Naturalization Service letter or INS Form I-94 showing that voluntary departure has been granted for an indefinite time period is evidence of this status;

(e) Aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure (under 8 CFR 242.5(a)(2)(vi)) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. A copy of INS Form I-94 or Form I-210 or a letter showing that status is evidence of this status;

(f) Aliens who have filed applications for adjustment of status pursuant to section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) that the Immigration and Naturalization Service has accepted as "properly filed" (within the meaning of 8 CFR 242.5(a) or (b)) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. A copy of INS Form I-94 or I-181 or a passport appropriately stamped is evidence of this status;

(g) Aliens granted stays of deportation by court order, statute or regulation, or by individual determination of the Immigration and Naturalization Service pursuant to section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) or relevant Immigration and Naturalization Service instructions, whose departure that agency does not contemplate enforcing. A copy of INS Form I-94 or a letter from the Immigration and Naturalization Service, or a copy of a court order establishing the alien's status is evidence of this status;

(h) Aliens granted asylum pursuant to section 208 of the Immigrant and Nationality Act (8 U.S.C. 1158). A copy of INS Form I-94 and a letter establishing this status is evidence of this status;

(i) Aliens admitted as refugees pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or section 203(a)(7) of the Immigration Act (8 U.S.C. 1153(a)(7)). A copy of INS Form I-94 properly endorsed is evidence of this status;

(j) Aliens granted voluntary departure pursuant to section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) or 8 CFR 242.5 whose departure the Immigration and Naturalization Service does not contemplate enforcing. A copy of INS Form I-94 or Form I-210 bearing a departure date is evidence of this status;

(k) Aliens granted deferred action status pursuant to Immigration and Naturalization Service Operations Instruction 103.1(a)(ii) prior to June 15, 1984 or § 242.1(a)(22) issued June 15, 1984 and later. A copy of INS Form I-210 or a letter showing that departure has been deferred is evidence of this status;

(l) Aliens residing in the United States under orders of supervision pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252(d)). A copy of Form I-220 B is evidence of this status;

(m) Aliens who have entered and continuously resided in the United States since before January 1, 1972 (or any date established by section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259);

(n) Aliens granted suspension of deportation pursuant to section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. An order from an immigration judge showing that deportation has been withheld is evidence of this status;

(o) Aliens whose deportation has been withheld pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)). An order from an immigration judge showing that deportation has been withheld is evidence of this status; or

(p) Any other aliens living in the United States with the knowledge and permission of the Immigration and Naturalization Service and whose departure that agency does not contemplate enforcing. (Including permanent non-immigrants.)

B. 42 CFR Part 436 would be amended as set forth below:

1. The authority citation for Part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. The table of contents to Part 436 is amended by removing and reserving § 436.402, adding a new § 436.128 under

Subpart B, § 436.330 under Subpart D, and new §§ 436.406 and 436.408 under Subpart E to read as follows:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

Subpart B—Mandatory Coverage, of the Categorically Needy

Sec. 436.128 Limited coverage for certain qualified aliens.

Subpart D—Optional Coverage of the Medically Needy

436.330 Medically needy coverage for certain qualified aliens.

Subpart E—General Eligibility Requirements

436.402 [Reserved]

436.406 Citizenship and alienage.

436.408 Categories of aliens who are permanently residing in the United States under color of law.

3. In Subpart A, § 436.2 is amended by revising the introductory text and adding in chronological order additional law citations to read as follows:

§ 436.2 Basis.

This part implements the following sections of the Act and other public laws which state requirements and standards for eligibility:

1903(v) Payment for emergency services under Medicaid provided to aliens.

Pub. L. 99-509, section 9406 Payment for emergency medical services provided to aliens.

Pub. L. 99-603, section 201 Aliens granted legalized status under section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) may under certain circumstances be eligible for Medicaid.

Pub. L. 99-603, section 302 Aliens granted legalized status under section 210 of the Immigration and Nationality Act may under certain circumstances be eligible for Medicaid (8 U.S.C. 1160).

Pub. L. 99-603, section 303 Aliens granted legal status under section 210A of the Immigration and Nationality Act may under certain circumstances be eligible for Medicaid (8 U.S.C. 1161).

4. A new § 436.128 is added to Subpart B to read as follows:

§ 436.128 Coverage for certain qualified aliens.

(a) *Lawful temporary or permanent resident status under the Immigration and Nationality Act (INA).* (1) The Agency must provide services to an alien granted lawful temporary or permanent resident status under sections 245A, 210 or 210A of the INA provided the alien maintains a valid immigration status and meets the eligibility requirements under the State Medicaid plan, except for receipt of AB, APTD, or AABD, and is—

(i) An aged, blind, or disabled individual as defined in section 1614(a)(1) of the Act;

(ii) A child under 18 years of age; or

(iii) A Cuban or Haitian entrant as defined in section 501 (e)(1) and (2)(A) of Pub. L. 96-422.

(2) For aliens not described in paragraph (a)(1) of this section, the agency may provide no services other than emergency services and/or pregnancy related services as defined in § 440.255 (a) and (b) of this chapter to an alien for five years after the alien is granted lawful temporary or permanent resident status under sections 245A, 210 or 210A of the INA, provided such alien, but for his or her immigration status, would otherwise be eligible for Medicaid under the State plan.

(b) *Other aliens.* The agency may provide no services other than those necessary for the treatment of an emergency medical condition as defined in § 440.255(a) of this chapter to aliens who are ineligible for Medicaid because they are not lawfully admitted for permanent residence or permanently residing under color of law, or granted lawful temporary resident status under sections 245A, 210 and 210A of the INA but who would otherwise have been able to meet the eligibility requirements under the State's Medicaid plan, except for receipt of OAA, AFDC, AB, APTD, or AABD.

5. A new § 436.330 is added to Subpart D to read as follows:

§ 436.330 Medically needy coverage for certain qualified aliens.

(a) *Medically needy coverage of aliens with lawful temporary or permanent resident status under the Immigration and Nationality Act (INA).*

(1) If an agency provides Medicaid to the medically needy, it must provide services to an alien granted lawful temporary or permanent resident status under section 245A, 210 or 210A of the INA provided the alien maintains a valid immigration status and meets the eligibility requirements under the State Medicaid plan and is—

(i) An aged, blind, or disabled individual as defined in section 1614(a)(1) of the Act;

(ii) A child under 18 years of age; or

(iii) A Cuban or Haitian entrant as defined in section 501 (e)(1) and (2)(A) of Pub. L. 96-422.

(2) For aliens not described in paragraph (a) (1) of this section, the agency may provide no services other than emergency services and/or pregnancy related services as defined in § 440.255 (a) and (b) of this chapter to an alien for five years after the alien is granted lawful temporary or permanent resident status under sections 245A, 210 or 210A of the INA, provided such alien, but for his or her immigration status, would otherwise be eligible for Medicaid under the State plan.

(b) *Other aliens.* If an agency provides Medicaid to the medically needy, it may provide no services other than those necessary for the treatment of an emergency medical condition, as defined in § 440.255(a) of this chapter to aliens who are ineligible for Medicaid because they are not lawfully admitted for permanent residence, permanently residing under color of law, or granted lawful temporary resident status under sections 245A, 210 or 210A of INA but who would otherwise have been able to meet the eligibility requirements under the State's Medicaid plan, except for the requirement for receipt of OAA, AFDC, AB, APTD, or AABD.

6. In Subpart E, § 436.402 is removed and reserved.

§ 436.402 [Reserved]

7. A new § 436.406 is added to read as follows:

§ 436.406 Citizenship and alienage.

(a) The agency must provide Medicaid to otherwise eligible residents of the United States who are—

(1) Citizens; or

(2) Aliens lawfully admitted for permanent residence or permanently residing in the United States under color law, as defined in § 436.408 of this part; or

(3) Aliens granted lawful temporary resident status or lawful permanent resident status under sections 245A, 210, or 210A of the Immigration and Nationality Act if the individual is aged, blind, or disabled as defined in section 1614(a)(1) of the Act, under 18 years of age, or a Cuban/Haitian entrant as defined in section 501 (e)(1) and (2)(A) of Pub. L. 96-422.

(b) The agency may provide no services other than emergency services and services for pregnant women to otherwise eligible residents of the United States not described in

paragraph (a)(3) of this section who have been granted lawful temporary or lawful permanent resident status under section 245A, 210 or 210A of the Immigration and Nationality Act for five years from the date lawful temporary resident status was granted.

(c) The agency may provide no services other than emergency (including emergency labor and delivery) services as defined in § 440.255 of this chapter, to aliens not described in paragraphs (a) and (b) of this section who although ineligible for Medicaid would, but for their immigration status, otherwise meet the eligibility requirements for Medicaid under the State's approved plan.

8. A new § 436.408 is added to read as follows:

§ 436.408 Categories of aliens who are permanently residing in the United States under color of law.

This section describes aliens that the agency may accept as permanently residing in the United States under color of law and who may be eligible for Medicaid. The agency reviews as evidence the listed document that the Immigration and Naturalization Service furnishes to aliens in these categories. None of the categories include applicants for an Immigration and Naturalization Service status other than those applicants listed in paragraph (f) of this section, or those covered under paragraph (p) of this section, or non-immigrants such as students.

(a) Aliens admitted to the United States pursuant to 8 U.S.C. 1153(a)(7), (section 203(a)(7) of the Immigration and Nationality Act). A copy of INS Form I-94 endorsed "Refugee-Conditional Entry" is evidence of this status;

(b) Aliens, including Cuban/Haitian entrants, paroled in the United States pursuant to 8 U.S.C. 1182(d)(5) (section 212(d)(5) of the Immigration and Nationality Act). A copy of INS Form I-94 is required with notation that the alien was paroled pursuant to section 212(d)(5) of the Immigration and Nationality Act is evidence of this status. For Cuban/Haitian entrants, a copy of INS Form I-94 stamped Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981 is evidence of this status. (Although the forms bear this notation, Cuban/Haitian entrants are admitted under section 212(d)(5) of the Immigration and Nationality Act.);

(c) Aliens residing in the United States pursuant to an indefinite stay of deportation. An Immigration and Naturalization Service letter with this information or INS Form I-94 with such a notation is evidence of this status;

(d) Aliens residing in the United States pursuant to an indefinite voluntary departure. An Immigration and Naturalization Service letter or INS Form I-94 showing that a voluntary departure has been granted for an indefinite time period is evidence of this status;

(e) Aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure (under 8 CFR 242.5(a)(2)(vi)) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. A copy of INS Form I-94 or INS Form I-210 or a letter showing this status is evidence;

(f) Aliens who have filed applications for adjustment of status pursuant to section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) that the Immigration and Naturalization Service has accepted as "properly filed" (within the meaning of 8 CFR 242.5 (a) or (b)) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. A copy of INS Form I-94 or I-181 or a passport properly endorsed is evidence of this status;

(g) Aliens granted stays of deportation by court order, statute or regulation, or by individual determination of the Immigration and Naturalization Service pursuant to section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) or relevant Immigration and Naturalization Service instructions, whose departure that agency does not contemplate enforcing. A copy of INS Form I-94 or a letter from the Immigration and Naturalization Service, or copy of a court order establishing the aliens's status is evidence of this status;

(h) Aliens granted asylum pursuant to section 208 of the Immigration and Nationality Act (8 U.S.C. 1158). A copy of INS Form I-94 and a letter establishing this status is evidence of this status;

(i) Aliens admitted as refugees pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)). A copy of INS Form I-94 properly endorsed is evidence of this status;

(j) Aliens granted voluntary departure pursuant to section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1152(b)) or 8 CFR 242.5 whose departure the Immigration and Naturalization Service does not contemplate enforcing. A copy of INS Form I-94 or I-210 bearing a departure date is evidence of this status;

(k) Aliens granted deferred action status pursuant to Immigration and Naturalization Service Operations Instruction 103.1(a)(ii) prior to June 15, 1984 or § 242.1(a)(22) issued June 15, 1984 and later. A copy of INS Form I-210 or a letter showing that departure has been deferred is evidence of this status;

(l) Aliens residing in the United States under orders of supervision pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1152(d)). A copy of Form I-220 B is evidence of this status;

(m) Aliens who have entered and continuously resided in the United States since before January 1, 1972 (or any date established by section 249 of the Immigration and Nationality Act, 8 U.S.C. 1259);

(n) Aliens granted suspension of deportation pursuant to section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) and whose departure the Immigration and Naturalization Service does not contemplate enforcing. An order from the immigration judge is evidence of this status;

(o) Aliens whose deportation has been withheld pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)). An order from an immigration judge showing that deportation has been withheld is evidence of this status; or

(p) Any other aliens living in the United States with the knowledge and permission of the Immigration and Naturalization Service and whose departure that agency does not contemplate enforcing. (Including permanent non-immigrants).

C. 42 CFR Part 440, Subpart B would be amended as set forth below:

1. The authority citation for Part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents to Part 440 is amended by adding an entry for § 440.255 to read as follows:

PART 440—SERVICES: GENERAL PROVISIONS

Subpart B—Requirements and Limits Applicable to All Services

440.255 Emergency services for aliens.

3. Section 440.200 is revised to read as follows:

Subpart B—Requirements and Limits Applicable to All Services

§ 440.200 Basis, purpose, and scope.

This subpart implements the following statutory requirements—

(a) Section 1902(a)(10), regarding comparability of services for groups of recipients, and the amount, duration, and scope of services described in section 1905(a) of the Act that the State plan must provide for recipients;

(b) Section 1902(a)(22)(D), which provides for standards and methods to assure quality of services;

(c) Section 1903(v), which provides that aliens may be eligible for Medicaid if lawfully admitted for permanent residence or permanently residing in the United States under color of law. Other aliens, although ineligible for Medicaid, may receive emergency services if they would be otherwise eligible, but for their alienage status;

(d) Section 1907 on observance of religious beliefs;

(e) Section 1915 on exceptions to section 1902(a)(10) and waivers of other requirements of section 1902 of the Act; and

(f) Sections 245A(h), 210 and 210A of the Immigration and Nationality Act which provide that certain aliens who are legalized may be eligible for Medicaid.

4. Section 440.210 is revised to read as follows:

§ 440.210 Required services for the categorically needy.

(a) A State plan must specify that, as a minimum, categorically needy recipients are provided the services as specified in §§ 440.10 through 440.50, 440.70 and (to the extent nurse-midwives are authorized to practice under State law or regulation) § 440.165.

(b) A State plan must specify that aliens described in §§ 435.139(a)(1) and 436.128(a)(1) will receive at least the services provided in paragraph (a) of this section.

(c) A State plan must specify that aliens not described in paragraph (b) of this section, will only be provided the limited services specified in § 440.255.

5. Section 440.220 is revised to read as follows:

§ 440.220 Required services for the medically needy.

(a) A State plan that includes the medically needy must specify that the medically needy are provided, as a minimum, the following services.

(1) Prenatal care and delivery services for pregnant women.

(2) Ambulatory services, as defined in the State plan, for—

(i) Individuals under age 18; and

(ii) Individuals entitled to institutional services.

(3) Home health services (§ 440.70) to any individual entitled to skilled nursing facility services.

(4) If the State plan includes services in an institution for mental diseases (§ 440.140 or § 440.160) or in an intermediate care facility for the mentally retarded (§ 440.150(c)) for any group of medically needy, either of the following sets of services to each of the medically needy groups:

(i) The services contained in § 440.10 through 440.50 and (to the extent nurse-midwives are authorized to practice under State law or regulation) 440.165; or

(ii) The services contained in any seven of the sections in §§ 440.10 through 440.165.

(b) A State plan must specify that aliens described in §§ 435.350(a)(1), and 436.330(a)(1) will receive at least the services provided in paragraph (a)(4)(i) and (ii) of this section.

(c) A State plan must specify that aliens not described in paragraph (b) will only be provided the limited services specified in § 440.255.

6. In § 440.250, paragraph (h) is revised, new paragraphs (m) and (n) are added to read as follows:

§ 440.250 Limits on comparability of services.

(h) Ambulatory services for the medically needy (§ 440.220(a)(2)) may be limited to—

(1) Individuals under age 18; and
(2) Individuals entitled to institutional services.

(i) Services provided under an exception to requirements allowed under § 431.54 may be limited as provided under that exception.

(m) Eligible legalized aliens who are not in the exempt groups described in §§ 435.406(a) and 436.406(a), and considered categorically needy or medically needy may be furnished only emergency services and services for pregnant women for 5 years from the date the alien is granted lawful temporary resident status.

(n) Aliens who are not lawful permanent residents, permanently residing in the United States under color of law, or granted lawful status under section 245A, 210 or 210A or the Immigration and Nationality Act, who, but for the alienage status could be considered categorically needy or medically needy may be furnished only emergency (including emergency labor and delivery) services.

7. A new § 440.255 is added to read as follows:

§ 440.255 Emergency services for aliens.

(a) *Aliens eligible for emergency services.* Effective January 1, 1987, aliens who are not lawfully admitted for permanent residence in the United States or permanently residing in the United States under the color of law may receive emergency services if the following are met—

(1) The alien has a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the patient's health in serious jeopardy.

(ii) Serious impairment to bodily functions, or

(iii) Serious dysfunction of any bodily organ or part.

(2) To be eligible to have payment made for emergency services an alien meeting the medical criteria in paragraph (a) of this section must, but for his or her alien immigration status, meet all other eligibility requirements for Medicaid, as set forth in the approved State plan.

(b) *Legalized aliens eligible only for emergency services and services for pregnant women.* Aliens granted lawful temporary resident status, or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act, who are not in one of the exempt groups described in §§ 436.406(a)(3) and 435.406(a)(3) and who meet all other requirements for Medicaid will be eligible for the following services—

(1) Emergency services required because of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the patient's health in serious jeopardy.

(ii) Serious impairment to bodily functions, or

(iii) Serious dysfunction of any bodily organ or part.

(2) Services for pregnant women which are included in the approved State plan. These services include routine prenatal care, labor and delivery, and routine post-partum care. States, at their option, may provide additional plan services for the treatment of conditions which may complicate the pregnancy or delivery.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance)

Dated: December 9, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: August 10, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88-21898 Filed 9-28-88; 8:45am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 87-266; FCC 88-249]

Telephone Company; Cable Television Cross-Ownership

AGENCY: Federal Communications Commission.

ACTION: Further inquiry, and proposed rule.

SUMMARY: The Further Notice of Inquiry (Further NOI) portion of this CC Docket No. 87-266 document continues the Commission's ascertainment of whether marketplace changes warrant Commission recommendations to the Congress for modification or elimination of the cable television/telephone company cross-ownership prohibitions made statutory by the Cable Communications Policy Act of 1984 (Cable Act). The Notice of Proposed Rulemaking (NPRM) section of the document proposes amendments to the standards of affiliation between telephone companies and cable systems set forth in Rule § 63.54.

DATES: Comments must be received on or before November 1, 1988 and reply comments on or before November 28, 1988.

ADDRESS: Comments shall be filed with the Federal Communications Commission, Washington, DC 20554 as prescribed in §§ 1.415-1.419 of the Commission's Rules.

FOR FURTHER INFORMATION CONTACT: Patrick J. Donovan, (202) 634-1832.

SUPPLEMENTARY INFORMATION: This is a summary of a combined Further NOI and NPRM in CC Docket No. 87-266 adopted by the Commission on July 20, 1988, and released on September 22, 1988. The full text of the item may be examined in the Commission's Dockets Branch, Room 230, 1919 M St. NW., Washington, DC, during regular business hours or purchased from the Commission's duplicating contractor, International Transcription Services,

2100 M St. NW., Suite 140, Washington, DC 20037, telephone (202) 857-3800.

Existing Cross-Ownership Rules

Section 63.54 of the Commission's rules prohibits telephone common carriers subject in whole or in part to the Communications Act from engaging in the provision of video programming to the viewing public in the carriers' telephone service areas either directly, or indirectly through affiliates. Such carriers also are prohibited from providing channels of communications or pole line conduit space or other rental arrangements to affiliated entities for the provision of video programming to the viewing public within their telephone service areas. Rule § 63.56 provides for waiver of § 63.54 on the Commission's own motion or on petition for waiver where it is demonstrated that cable television service demonstrably could not exist except through a cable system owned, operated, controlled by, or affiliated with the local telephone common carrier, or upon other showing of good cause. Section 63.58 exempts rural communities from the cross-ownership restrictions. The rules do not prohibit telephone common carriers from providing facilities and services on a common carrier basis for use by independent cable operators in their provision of cable television service (known as "channel service"). With minor modifications, the Commission's rules governing telephone company/cable television cross-ownership were generally made statutory by the Cable Act.

INITIAL NOI

On July 16, 1987, the Commission adopted a Notice of Inquiry (2 FCC Rcd 5092 (1987), 52 FR 34818 (September 15, 1987)), seeking comment on whether any changes are warranted in the telephone company/cable television cross-ownership restrictions embodied in the Cable Act and in Commission rules.

Further NOI and NPRM

The further NOI tentatively concludes that the present cross-ownership prohibitions should be replaced by a regulatory framework which generally would allow telephone common carriers to provide cable television service within their telephone service areas, subject to regulatory safeguards to assure against anticompetitive conduct by telephone companies. The Commission explained that greater participation in the provision of cable television service by telephone common carriers, pursuant to appropriate safeguards, possibly modeled after those

adopted in the *Computer III* proceeding (CC Docket No. 85-229), would result in increased public interest benefits such as efficiencies that could be passed on to the public in the form of lower rates and/or additional services. The Commission solicited comments on its conclusions, and seeks recommendations for appropriate safeguards against anticompetitive conduct by telephone companies, for the purpose of developing the fullest possible record on which to base legislative proposals to the Congress, if warranted. Also sought are comments on whether statutory changes to remove state regulatory impediments to cable systems which provide services other than video programming would serve the public interest. The Commission further identified standards that it might use in applying waiver for "good cause" under § 63.56 of its rules and section 613(b)(4) of the Cable Act. Specifically, the Commission tentatively concluded that construction of advanced, integrated systems for the provision of cable television service and other services could constitute good cause for waiver of the cross-ownership prohibitions.

The NPRM portion of the proceeding proposes liberalization of the permissible limits of affiliation between telephone companies and cable television providers. The proposed revised standards of affiliation are essentially similar the broadcast/cable cross-ownership affiliation rules in Rule § 76.501. The Commission proposed to continue to generally prohibit direct or indirect ownership, operation, or control of cable television systems by telephone companies within their operating territories, while defining and barring only cognizable interests. Cognizable interests are proposed to include partnerships and direct ownership interests but not voting stock interests of less than 5 percent. Other non-cognizable interests are proposed to include minority voting stock interests where there is a single holder of more than 50 percent of the outstanding voting stock of a telephone company or cable operator; holdings by investment companies, insurance companies, or bank trust departments of less than 10% of the outstanding voting stock of telephone or cable companies; non-

voting stock; and debt and instruments such as warrants or options, in some cases. Non-managing limited partnership interests would also be non-cognizable.

Comments on the foregoing interpretations and conclusions, as well as others set forth in the item, are sought.

List of Subjects in 47 CFR Part 63

Telephone common carriers, Video programming, Cross-ownership.

Legal Basis

This further NOI seeking additional supportive facts, and NPRM to amend Part 63 of the Commission's rules, is issued pursuant to authority contained in sections 1, 4, 201-205, 215, 218, 220, 313, 309(e)-(h), 405 and 412 of the Communications Act of 1934, as amended and section 553 of the Administrative Procedure Act.

H. Walker Feaster, III,

Acting Secretary.

[FR Doc. 88-22295 Filed 9-28-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

Snapper-Grouper Fishery of the South Atlantic.

AGENCY: National Marine Fisheries Service (National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the South Atlantic Fishery Management Council (Council) has submitted Amendment 1 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region for Secretarial review and is requesting comments from the public. Copies of the amendment may be obtained from the address below.

DATE: Comments on the amendment should be submitted on or before November 23, 1988.

ADDRESSES: All comments should be sent to Rodney C. Dalton, NMFS, Southeast Region, 9450 Koger Boulevard, St. Petersburg, FL 33702. Clearly mark, "Comments on Amendment 1 to the Snapper-Grouper FMP" on the envelope.

Copies of the amendment are available upon request from the South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT:

Rodney C. Dalton (Regional Plan Coordinator), 813-893-3722.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended (16 U.S.C. 1801 *et seq.*) requires that each regional fishery management council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon receiving the amendment, must immediately publish a notice that the amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the amendment.

This amendment proposes to prohibit the use of trawl nets in the snapper-grouper fishery in the exclusive economic zone between Cape Hatteras, North Carolina, and Cape Canaveral, Florida. The intended effect of this action is to prevent habitat damage and prevent the harvest of undersized fish, thereby ensuring the continued productivity of this snapper-grouper resource, and to clarify existing regulations.

Regulations proposed by the Council and based on this amendment are scheduled to be published within 15 days.

(16 U.S.C. 1801 *et seq.*)

Dated: September 26, 1988.

Joe P. Clem,

Acting Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-22342 Filed 9-26-88; 2:47 pm]

BILLING CODE 3510-22-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Quarterly Financial Report.

Form Number: QFR 103A (NB-1), 101, 102 (MC, TR Long Form), and 101A (MC Short Form).

Type of Request: Revision.

Responses: 50,600.

Burden: 202,100 hours.

AVG Hours Per Responses: 4 hours.

Needs And Uses: This survey provides the best available source of timely financial data for gauging quarterly performance of the nonregulated, domestic corporate sector. Users include the Commerce Department (GNP calculation), the Federal Reserve Board, the Council of Economic Advisors, and a host of private sector organizations and individuals.

Affected Public: Businesses or other for-profit Small businesses or organizations.

Frequency: NB-1—Annually and Biennially; Other Forms—Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 26, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-22338 Filed 9-28-88; 8:45 am]

BILLING CODE 3510-07-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Certificate of Eligibility for Atlantic Billfishes

Form Number: None.

Type of Request: New Collection.

Burden: 10 respondents, 16.5 reporting hours. Average hours per response is .33 hours.

Needs and Uses: A proposed rule for the Atlantic Billfish fishery would prohibit the sale of imported billfish caught in the management area. Persons wishing to import billfish must certify that the fish were caught outside of the management area. The information is used for fishery management and enforcement.

Affected Public: Individuals, Business and other for-profit institutions, Small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 20, 1988

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-22339 Filed 9-28-88; 8:45 am]

BILLING CODE 3510-CW-M

Federal Register

Vol. 53, No. 189

Thursday, September 29, 1988

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Cost Survey of Trawl and Fixed Gear Sablefish Vessels on the West Coast.

Form Number: None.

Type of Request: New Collection.

Burden: 180 respondents; 60 reporting hours; average hours per response—.33 hours.

Needs and Uses: Commercial fishermen in the west coast sablefish fishery will be surveyed to determine their costs of participating in this fishery. The data will be used by the National Marine Fisheries Service in fishery management decisions, in particular in deciding whether sablefish quotas should be allocated by gear type.

Affected Public: Businesses or other for-profit, small businesses or organizations.

Frequency: One-time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: John Griffen, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 26, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-22340 Filed 9-28-88; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of Export Administration

Joint Factory Computing and Communications Subcommittee of the Automated Manufacturing Equipment Technical Advisory Committee; The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; The Computer Systems Technical Advisory Committee and the Electronic Instrumentation Technical Advisory Committee; Open Meeting

A meeting of the Joint Factory Computing and Communications Subcommittee of the Automated Manufacturing Equipment Technical Advisory Committee; the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; the Computer Systems Technical Advisory Committee and the Electronic Instrumentation Technical Advisory Committee will be held October 25, 1988, 9:00 a.m., Room B-841, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC. The joint subcommittee advises the Office of Technology and Policy Analysis on overlapping issues such as; Computerized Numerical Control (CNC), Computer-Aided-Design (CAD), Computer-Aided-Manufacturing (CAM), Computer Aided-Engineering (CAE), etc.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Comments from Technical Advisory Committee representatives.
4. Analysis of Overlapping and Priority Concerns.
5. Identification of Key Items for Joint Resolution.
6. Development of Plan for Action.
7. Establishment of Meeting Schedule.

The entire meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

For further information or copies of the minutes, call Betty A. Ferrell at 202/377-2583.

Dated: September 26, 1988.

Betty A. Ferrell,

*Acting Director, Technical Support Staff,
Office of Technology and Policy Analysis.*

[FR Doc. 88-22337 Filed 9-28-88; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket 29-88]

**Proposed Foreign-Trade Zone;
Sedgwick County, KS, Wichita Port of
Entry; Application and Public Hearing**

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of County Commissioners of Sedgwick County, Kansas (BCC), requesting authority to establish a general-purpose foreign-trade zone in Sedgwick County, Kansas, within the Wichita Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 19, 1988. BCC is authorized to make this application pursuant to section 12-825h of the Kansas Public Utility Statutes (K.S.A.).

The proposal calls for a general-purpose zone of 280 acres at the Garvey Industrial Park located at 5755 South Hoover Road, in Sedgwick County, about 3 miles southwest of Wichita's city limits. The privately-owned park contains over 700,000 sq. ft. of warehouse space for zone activity.

The application contains evidence of the need for zone services in the Wichita area. Several firms have indicated an interest in using zone procedures for warehousing/distribution activity, including recreational products, aircraft parts, graphic arts equipment, hardware, glass and wind screens. Specific manufacturing approvals are not being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Theodore Galantowicz, District Director, U.S. Customs Service, North Central Region, 7911 Forsythe Boulevard, Suite 625, St. Louis, Missouri 63105; and Colonel John Atkinson, District Engineer, U.S. Army Engineer District, Kansas City, 700 Federal Building, 601 E. 12th Street, Kansas City, Missouri 64106-2896.

As part of its investigation, the examiners committee will hold a public hearing on November 17, 1988, beginning at 9 a.m., in the Commissioners Meeting Room at the Sedgwick County Courthouse, 525 North Main, Wichita, Kansas 67203.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by November 10, 1988. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through December 17, 1988.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce, District Office (Wichita Branch Office), River Park Place, Suite 580, 727 North Waco, Wichita, Kansas 67203

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW., Room 1529, Washington, DC 20230

Dated: September 23, 1988.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88-22384 Filed 9-28-88; 8:45 am]

BILLING CODE 3510-05-M

International Trade Administration

[A-588-802]

**Preliminary Determination of Sales at
Less Than Fair Value; 3.5" Microdisks
and Coated Media Thereof from Japan**

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that 3.5" microdisks and coated media thereof from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of 3.5" microdisks and coated media thereof from Japan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by December 7, 1988.

EFFECTIVE DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street

and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3530 or (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that 3.5" microdisks and coated media thereof from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our notice of initiation (53 FR 9464, March 23, 1988), the following events have occurred. On April 5, 1988, the ITC determined that there is a reasonable indication that imports of 3.5" microdisks and coated media thereof from Japan are materially injuring a U.S. industry (USITC Pub. No. 2076, April 1988).

On April 13, 1988, questionnaires were presented to Sony Corporation (Sony), Hitachi Maxell, Ltd. (Hitachi), and Fuji Photo Film Company, Ltd. (Fuji), which account for a substantial portion of Japanese exports to the United States during the period of investigation.

We received replies to the questionnaire from Sony on April 28 and May 31, 1988. Replies were received from Fuji and Hitachi on April 27 and May 27, 1988. In addition, we received a voluntary response from Kasei Verbatim Corporation on April 27, 1988.

We sent deficiency letters to the four respondents during the period from May 6 to September 16, 1988. On May 24, 1988, Kasei Verbatim Corporation withdrew from the investigation. Responses to all deficiency letters sent to Hitachi and Fuji were received by the Department prior to this determination.

With regard to Sony, we sent four deficiency letters during the above referenced period. We also made numerous phone calls and met twice with Sony's counsel in an effort to obtain additional information and our preliminary determination. Although we received responses to the first three deficiency letters, we found that they did not adequately address our concerns. We did not receive the response to our last deficiency letter until September 23, 1988, the date of our preliminary determination.

On June 30, 1988, petitioner requested that the preliminary determination be postponed. On July 14, 1988 in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary

determination to September 23, 1988 (53 FR 27185, July 19, 1988).

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to the *Harmonized Tariff Schedule* (HTS) and all merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item number(s). Until that time, however, the Department will be providing both the appropriate *Tariff Schedules of the United States Annotated* (TSUSA) item number(s) and the appropriate HTS item number(s) with its product descriptions. As with the TSUSA, the HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HTS item number(s) as well as the TSUSA item number(s) in all petitions filed with the Department through the end of this year. A reference copy of the HTS schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all Customs officers have reference copies and petitioners may contact the Import Specialist at their local customs office to consult the schedule.

The products covered in this investigation are 3.5" microdisks and coated media thereof from Japan currently provided for under TSUSA item number 724.4570 and currently classifiable under HTS item number 8523.20.0000.

A 3.5" microdisk is a tested or untested magnetically coated polyester disk with a steel hub encased in a hard plastic jacket. 3.5" microdisks are used to record and store encoded digital computer information for access by a 3.5" floppy disk drive. They include single-sided, double-sided or high density formats.

Coated media is the flexible recording material used in the finished microdisk. Media consists of a polyester base film to which a coating of magnetically charged particles is bonded. It is intended for use specifically in a 3.5" floppy disk drive.

In our notice of initiation, the Department tentatively included within the scope of this investigation coated media produced in Japan and finished into 3.5" microdisks in third countries

prior to importation into the United States from those countries. Based upon the information developed during the course of this proceeding, however, we have determined to exclude from the scope of this investigation such third country imports of finished microdisks incorporating Japanese media.

The process of further manufacturing the unfinished media (cookies) imported from Japan is very complex. Burnishing, one of the finishing processes, is extremely important to the technical performance levels of the finished microdisk because burnishing affects the surface characteristics and electromagnetic properties of the media. The technical sophistication needed to overcome the difficulties of perfecting the burnishing process has been a significant barrier to the establishment of more microdisk plants.

Similarly, other finishing processes performed on the unfinished media—namely clean room subassembly of the shell and media, final assembly of the shutter and spring, and certification—require a substantial capital outlay and an extremely high degree of technical precision. The facilities needed to perform these operations represent an investment in state-of-the-art equipment and the employment of highly trained technical personnel. The capital- and technology-intensive nature of these processes reveals that media finishing is not the type of operation that can be set up and undertaken relatively easily in any country.

Thus, the finishing of media is readily distinguishable from the relatively simple assembly process that was evident in the *Erasable Programmable Read Only Memories from Japan* ("EPROM") determination. In that investigation, we did not regard encapsulation as a sophisticated operation; instead, it was determined that this assembly process was a stage of EPROM production which could be accomplished relatively easily in any country.

In short, due to the sophisticated technology, significant capital investment and substantial value added by a microdisk finisher, we have determined that imports of finished microdisks in the United States should be deemed products of the country in which the finishing of media was performed, not the country in which the unfinished media was produced. Based on the information developed, we do not find in this instance that excluding such third country imports of finished microdisks containing Japanese media would lead to substantial circumvention of any order.

Period of Investigation

The period of investigation is September 1, 1987, through February 29, 1988.

Fair Value Comparisons

To determine whether sales of 3.5" microdisks and coated media thereof from Japan to the United States were made at less than fair value, we compared the United States price (using both purchase price and exporter's sales price) to the foreign market value.

Although Sony did not respond to our last deficiency letter until the day of the determination, we have used the information contained in earlier submissions as the best information available according to section 776(c) of the Act. If we are unable to verify the revised data, we will continue to use best information available in our final determination. However, best information available for purposes of the final determination may be different from the information used for this preliminary determination.

United States Price**Purchase Price**

As provided in section 772(b) of the Act, we used the purchase price to represent the United States price for sales of 3.5" microdisks and coated media thereof where sales were made to an unrelated purchaser prior to importation of the product into the United States. We calculated purchase price based on packed F.O.B. prices. We made deductions, where appropriate, for foreign inland freight and insurance and foreign brokerage and handling.

Exporter's Sales Price

For all exporter's sales price sales, the subject merchandise was imported into the United States by a related importer before being sold to the first unrelated party.

To calculate exporter's sales price in accordance with section 772(c) of the Act, we used the packed, delivered, duty paid prices of 3.5" microdisks and coated media thereof to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, foreign brokerage, ocean freight, air freight, marine insurance, U.S. duty, U.S. brokerage and handling, U.S. inland freight, U.S. inland insurance, discounts and allowances, rebates and price protection.

We made deductions under § 353.10(e)(2) of our regulations for direct and indirect selling expenses incurred by or for the account of the exporter in selling 3.5" microdisks and

coated media thereof in the United States. Direct selling expenses were deducted for U.S. credit, warranties, advertising, sales promotion and repacking for shipment to the customer. For Fuji and Sony, indirect selling expenses were comprised of indirect selling expenses incurred outside the United States, U.S. indirect selling expenses incurred outside the United States, U.S. indirect selling expenses of the related reseller in the United States, related commissions and inventory carrying costs. For Hitachi, indirect selling expenses were comprised of indirect selling expenses of the related reseller in the United States and inventory carrying costs. Pursuant to § 353.10(e)(1) of our regulations, we also deducted commissions paid to unrelated parties for all three respondents. The total of the indirect expenses and commissions formed the cap for the allowable home market indirect selling expenses offset under § 353.15(c) of our regulations.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on the packed, delivered or ex-works prices to related and unrelated customers in the home market. For purposes of this preliminary determination, we included sales to related customers, pursuant to 19 CFR 353.22(b), since we preliminarily determine that the prices paid by those customers were comparable to the prices paid by unrelated customers. If we are unable to ascertain at verification that the prices to related and unrelated customers in the home market are comparable, we will use only the sales to unrelated customers in calculating the foreign market value in our final determination. We made deductions from the home market price, where appropriate, for inland freight and insurance, handling, cash discounts, rebates, and price protection. We deducted the home market packing cost from the foreign market value and added all U.S. packing costs.

Where appropriate, we made further adjustments to the home market price to account for differences in the merchandise due to differences in consumer packaging, in accordance with section 773(a)(4)(B) of the Act.

For comparisons involving purchase price sales, we made adjustments to the home market price, where appropriate, for differences in credit expenses, advertising and promotion, pursuant to 19 CFR 353.15.

For comparisons involving exporter's sales price transactions, we made further deductions from the home

market price, where appropriate, for credit expenses, advertising and promotion. Indirect selling expenses incurred on home market sales up to the amount of commissions and indirect selling expenses incurred on sales in the U.S. market were deducted for the three respondents, in accordance with § 353.15(c) of our regulations.

Currency Conversion

For comparisons involving purchase price transactions, we made currency conversions in accordance with 19 CFR 353.56(a)(1). For comparisons involving exporter's sales price transactions, we used the official exchange rates in effect on the dates of sale, in accordance with section 773 (a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

We will verify the information used in making our final determination in accordance with section 776(b) of the Act.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of 3.5" microdisks and coated media thereof from Japan that are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the Federal Register. The U.S. Customs service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of 3.5" microdisks and coated media thereof from Japan exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Sony Corporation.....	44.84
Hitachi Maxell, Ltd.....	26.39
Fuji Photo Film Company, Ltd.....	54.32
All Others.....	39.66

This suspension of liquidation covers imports of 3.5" microdisks and coated media thereof meeting the definition outlined in the "Scope of Investigation" section of this notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the later of 120 days after the date of this determination, or 45 days after the final determination, if affirmative.

Public Comment

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:30 a.m. on November 7, 1988, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by October 31, 1988. Oral presentations will be limited to

issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).
September 23, 1988.

Jan W. Mares,
Assistant Secretary for Import
Administration.

[FR Doc. 88-22381 Filed 9-28-88; 8:45 am]

BILLING CODE 3510-DS-M

Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Publication of quarterly update of foreign government subsidies on articles of quota cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Paul J. McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the

Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for each of the countries for which subsidies were identified in the last quarterly update to our annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Date: September 23, 1988.

Jan W. Mares,
Assistant Secretary, Import Administration.

APPENDIX.—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross ¹ subsidy	Net ² subsidy
Belgium	European Community (EC) Restitution Payments	0.0¢/lb.	0.0¢/lb.
Canada	Export Assistance on Certain Types of Cheese	28.6¢/lb.	26.6¢/lb.
Denmark	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Finland	Export Subsidy	117.2¢/lb.	117.2¢/lb.
	Indirect Subsidies	22.0¢/lb.	22.0¢/lb.
		139.2¢/lb.	139.2¢/lb.
France	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Greece	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Ireland	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Italy	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Luxembourg	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Netherlands	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
Norway	Indirect (Milk) Subsidy	18.3¢/lb.	18.3¢/lb.
	Consumer Subsidy	40.6¢/lb.	40.6¢/lb.
		57.8¢	58.9¢/lb.
Switzerland	Deficiency Payments	96.5¢/lb.	96.5¢/lb.

APPENDIX.—QUOTA CHEESE SUBSIDY PROGRAMS—Continued

Country	Program(s)	Gross ¹ subsidy	Net ² subsidy
United Kingdom	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.
West Germany	EC Restitution Payments	0.0¢/lb.	0.0¢/lb.

¹ Defined in 19 U.S.C. 1677(5).² Defined in 19 U.S.C. 1677(6).

[FR Doc. 88-22382 Filed 9-28-88; 8:45 am]
BILLING CODE 3510-DS-M

[C-549-802 and C-559-802]

Extension of the Deadline Date for the Final Countervailing Duty Determinations; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Thailand and Singapore

AGENCY: Import Administration, International Trade Administration.

ACTION: Notice.

SUMMARY: Based upon the request of the petitioner in these investigations, we are extending the deadline date for the final determinations in these investigations to correspond to the date of the final determinations in the antidumping duty investigations of the same products pursuant to section 705(a)(1) of the Tariff Act of 1930, (the Act) as amended, (19 U.S.C. 167d(a)(1)). These final determinations are now due no later than January 10, 1989. Pursuant to section 705 of the Act and Article 5, paragraph 3, of the Subsidies Code, the Department will terminate the suspension of liquidation in these investigations 120 days after the date of publication of the preliminary countervailing duty determinations.

EFFECTIVE DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT:

Eleanor Shea or Barbara Tillman, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 377-0184 or 377-2438.

SUPPLEMENTARY INFORMATION: On

August 29, 1988, we issued the preliminary affirmative countervailing duty determinations pertaining to these investigations (53 FR 34333, September 6, 1988). On August 31, 1988, in accordance with section 705(a)(1) of the Act, as amended, we received a request from petitioner, The Torrington Company, to extend the deadline date for the final countervailing duty determinations to correspond to the date of the final determinations in the antidumping duty investigations of the

same products from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom. Accordingly, we are granting an extension of the deadline date for the final determinations in these investigations from November 14, 1988 to no later than January 10, 1989.

In accordance with section 705 of the Act and Article 5, paragraph 3, of the Subsidies Code, the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in these investigations on January 4, 1989, which is 120 days from the date of publication of the preliminary determinations in these cases. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters on or after January 4, 1989. The suspension of liquidation will not be resumed unless and until the Department publishes a countervailing duty order in these cases. We will also direct the U.S. Customs Service to hold any entries suspended between September 6, 1988 through January 3, 1989, until the conclusion of these investigations.

Jan W. Mares,

Assistant Secretary for Import Administration.

September 23, 1988.

[FR Doc. 88-22383 Filed 9-28-88; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Evaluation of State/Territorial Coastal Management Program, Coastal Energy Impact Program and National Estuarine Research Reserves; Correction

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

ACTION: Corrected notice of intent to evaluate.

Notice is hereby given that the National Oceanic and Atmospheric Administration, National Ocean Service,

Office of Ocean and Coastal Resource Management, announces its intent to evaluate the performance of the Washington Coastal Management Program (CMP), the North Carolina CMP, and the Rhode Island (Narragansett) National Estuarine Research Reserve through December 31, 1988. Federal Register Notice Doc. 88-19594, published August 30, 1988, incorrectly listed the time period during which these evaluations will be conducted.

Federal Domestic Assistant Catalog 11.419 Coastal Zone Management Program Administration

Dated: September 22, 1988.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 88-22377 Filed 9-28-88; 8:45 am]

BILLING CODE 3510-08-M

Marine Mammals; Application for Permit: Ringling Bros.-Barnum & Bailey Circus (P384A)

Notice is hereby given that the Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216),

1. *Applicant:* Ringling Bros.-Barnum & Bailey Circus, 3201 New Mexico Ave., Washington, DC 20016.

2. *Type of Permit:* Public display.

3. *Name and Number of Marine Mammals:* Patagonian sea lions (*Otaria flavescens*) 2.

4. *Type of Take:* The applicant proposes to import the captive born sea lions from Denmark for public display.

5. *Location and Duration of Activity:* Denmark; 2 year. The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Bldg., Gloucester, Massachusetts 01930;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

Date: September 26, 1988.

[FR Doc. 88-22392 Filed 9-28-88; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Prevailing Charge Levels; Update Deferral

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of deferral of update of CHAMPUS prevailing charge levels for professional services.

SUMMARY: The Director of the Office of CHAMPUS will defer the update of CHAMPUS prevailing charge levels for professional services effective October 1, 1988. This will have the effect of maintaining the prevailing charge levels in effect for Fiscal Year 1988, which ends on September 30, 1988. The deferral of the update will last for twelve months unless Congress approves a pending proposal to establish the Medicare Economic Index (MEI) as a limit on growth in CHAMPUS prevailing charges. If Congress does take this action, it is anticipated that the MEI will be in place effective January 1, 1989, in which case the deferral announced herein will cease on that date and prevailing charges will be updated in accordance with the MEI method.

This final notice is published in accordance with 32 CFR 199.14(f)(1)(i)(B)(2).

DATES: Effective date of this action is October 1, 1988.

ADDRESS: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

The charge for the **Federal Register** is \$1.50 for each issue or for each group of pages as actually bound, payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Tariq Shahid, Office of Program Development, OCHAMPUS, telephone (303) 361-3587.

To obtain copies of this document, see the "ADDRESS" section above.

SUPPLEMENTARY INFORMATION: On August 17, 1988, a notice was published in the **Federal Register** (53 FR 31078) announcing intent to defer the update of CHAMPUS prevailing charge levels for professional services, effective October 1, 1988, and inviting the public to submit comments regarding the planned action.

I. Discussion of Comments

We received comments from two health care organizations in response to the notice of intent: The American Medical Association (AMA), and the Georgia Health Network (GHN). Both organizations expressed the view that deferring the update of prevailing charge levels is inadvisable.

The AMA commented that the deferral should not be carried out because (1) physicians' costs continue to rise, (2) other factors besides physician payment levels are to blame for program cost increases, and (3) comparing CHAMPUS payment levels with the lower amounts paid by Medicare is inappropriate because Medicare has arbitrarily restricted growth in payment levels. Regarding the first point, we agree that increases in physician costs should be recognized in payment levels. However, the current update methodology does not consider physicians' costs; it reacts only to physicians' billed charges. Assuming that Congress adopts the update methodology that actually considers physicians' costs, namely the Medicare Economic Index (MEI), we will implement it. The action to defer the October 1, 1988 update, therefore, is a stopgap measure, taken to restrain growth until the MEI is in place for CHAMPUS. The MEI is designed to factor in increases in physician office costs and general wage levels.

The AMA is correct that factors other than higher payment levels have contributed to program cost growth. Some of those factors, such as growth in the number of beneficiaries and introduction of new, high-cost health care technologies, are beyond our control. We feel it is sound public policy to attempt to fairly constrain program growth by addressing the factors which we can affect, such as the unconstrained growth in payment levels. This has clearly been one of the major factors that has contributed to spiraling CHAMPUS costs.

The final point raised by the AMA is that it is inadvisable to use Medicare as a benchmark for CHAMPUS because the Medicare reimbursement methodology is being reviewed and appears to be flawed, and because Medicare payment levels for physicians have been severely constrained in recent years. We agree that Medicare payment levels should not be the barometer for determining the appropriate level for CHAMPUS reimbursement; the two programs serve different beneficiary populations under different circumstances, and have divergent methodologies for determining

reimbursement levels for professional services. We do not propose, nor would either this deferral of updating prevailing charge levels or adoption of the MEI method result in CHAMPUS payment levels being the same as those for Medicare. Comparisons with Medicare are provided only to indicate the present generosity of CHAMPUS payment levels, as compared with the major Federal payor for health services, and to emphasize that modest constraint on increases in CHAMPUS prevailing charges is a reasonable step to undertake.

The Georgia Health Network had two main comments: first, that the proposed deferral will have negative effects far outweighing the value of the cost savings, and second, that other avenues to controlling costs are more appropriate.

GHN raises the concern that beneficiary access to care will suffer because physicians will be hesitant to treat CHAMPUS patients if payment levels are reduced. The group points out that payment levels are currently viewed favorably, while the administrative burden associated with the program is viewed negatively by physicians. We agree that beneficiary access to care is an important issue in relation to establishment of payment levels; it has been our contention all along that payment levels are sufficiently high that a modest constraint can be achieved without threatening access, and we continue to believe that. In view of the generous allowable charge levels that will continue to exist, even with a one-year deferral, we do not think it likely that many physicians will deny affordable care to military families. We are concerned about providers viewing the program negatively, and have worked very hard to assure timely and accurate payments and high quality provider service by our fiscal intermediaries.

GHN comments that there are two policy objectives to be pursued: Maximizing beneficiary access to high quality care, and securing that care at the lowest cost to the government. GHN comments that constraints on the level of reimbursement should be matched with systemic constraints upon beneficiary utilization of the program. We agree in concept, and are developing and testing ways to constrain unnecessary utilization of services, including the development of working relationships with the Peer Review Organizations which review medical care for Medicare. This will help for

inpatient care, but for other kinds of care, it is considerably more difficult to constrain unnecessary utilization. In the meantime, we feel it is appropriate to pursue constraints on payment levels as a first step.

II. Action to be Taken

The Director of the Office of CHAMPUS will defer the update of CHAMPUS prevailing charge levels for professional services effective October 1, 1988. This will have the effect of maintaining the prevailing charge levels in effect for Fiscal Year 1988, which ends on September 30, 1988. This deferral will be in effect until January 1, 1989, if the MEI is then in place as a restraint on growth in CHAMPUS prevailing charges, in which case prevailing charge levels will be updated based on the MEI methodology, or, if Congress does not adopt the MEI method until October 1, 1989.

As an aside, a January 1 MEI-based update would allow CHAMPUS to be placed on the same calendar year update cycle as is currently followed by Medicare. This would assure that in future years we will have accurate MEI-related data before our updates.

As stated in our notice of intent of August 17, 1988, there are several reasons for implementing a deferral of the update of CHAMPUS prevailing charges for professional services. First, CHAMPUS costs have been rising at an alarming rate, resulting in Congressional calls for Department of Defense action to restrain costs. From fiscal year 1984 to 1987 CHAMPUS costs grew by over 70 percent, from \$1.2 billion to over \$2.1 billion. The professional services component has been growing faster than CHAMPUS as a whole, increasing by nearly 90 percent from 1984 to 1987. This year professional services will account for about \$1 billion. DoD has taken a series of steps to gain some control over components of the CHAMPUS budget, most notably including the establishment of a Diagnosis Related Group (DRG)-based payment system and other payment method reforms affecting certain categories of institutional charges. To date, however, CHAMPUS has not yet implemented needed cost saving measures relating to professional fees.

Second, because CHAMPUS continues to pay for most professional fees on the basis of the physician's or other provider's billed charges, CHAMPUS allowable amounts are higher than necessary to assure fair payment to providers and broad access to care for beneficiaries. Part of the reason for this is that CHAMPUS has

not yet adopted some of the cost containment measures that have become popular with public and private payors. For example, beginning in 1974 under and Act of Congress, the Medicare program began restraining the rate of growth in professional fees by limiting increases to amounts justified by documented changes in physician office practice costs and general wage levels, these things being measured by the Medicare Economic Index (MEI). As an indication of the generosity of current CHAMPUS allowable charges relative to other payers, the CHAMPUS costs per professional visit grew by about 31 percent from 1984 to 1987, while the MEI grew by only 11 percent. Thus, it is most likely that the FY 1988 CHAMPUS physician payment levels (to be carried over in FY 1989) generally exceed those Medicare will be paying in FY 1989.

The third reason for implementing a deferral of prevailing charge updates is that this can be accomplished without hardship to CHAMPUS beneficiaries. Under current procedures, the vast majority of all physicians' charges are paid exactly as billed. Because of this, there is almost no amount disallowed and almost no balance billing of the beneficiary. In total, about 93 percent of the total amount charged by physicians is allowed by CHAMPUS. Less than four percent of all dollars shown in billed charges are subject to balance billing. Because CHAMPUS payment rates are now so high, there is room for modest constraint without risk of a significant drop in assignment rates or an increase in balance billing.

For these three primary reasons, the Director of CHAMPUS, with the approval of the Assistant Secretary of Defense for Health Affairs, will defer any allowable charge update until October 1, 1989, unless the MEI is in place for CHAMPUS, or January 1, 1989, in which case allowable charge levels will be updated by the MEI method. Subject to final Congressional action on the pending Defense Appropriations Act for Fiscal Year 1989, it appears that the MEI will be put in place by January 1, 1989, in which case the deferral of the update of prevailing charges will cease at that time.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 26, 1988.

[FR Doc. 88-22378 Filed 9-28-88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Use of Commercial Components in Military Equipment; Advisory Committee Meeting

SUMMARY: The Defense Science Board Task Force on Use of Commercial Components in Military Equipment will meet in open session on September 13, 1988 at TRW, Fairfax, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review issues concerning intellectual property, the domestic semiconductor industry, and issues as requested from industry.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 26, 1988.

[FR Doc. 88-22379 Filed 9-28-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Advisory Panel on ROTC Affairs; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Panel meeting:

Name of Panel: Army Advisory Panel on ROTC Affairs.

Date of Meeting: October 25-27, 1988.

Place: Norwich University, Vermont.

Time: 9 a.m.-5 p.m., October 26, 1988, 9 a.m.-5 p.m., October 27, 1988.

Proposed Agenda

The meeting will consist of briefings and discussions. The meeting is open to the public. Any interested person may appear before or file a statement with the Panel at the time, and in the manner, permitted by the Panel. It is projected that the following events will take place during the meeting. After opening remarks by Major General Robert E. Wagner and the chairman of the Panel, Dr. Harrison B. Wilson, any administrative matters requiring attention will be resolved. The meeting will then proceed with a variety of recent ROTC Cadet Command initiatives. Major General Wagner will provide an overview of the significant changes since the February 1988 meeting at Norfolk State University. Briefings on October 26-27 will include: Scholarship Update, Advertising Strategy, Precommissioning Literacy Standards, Marketing Operation Citizen Soldier,

Spring Gold, Green to Gold Update, Camps Update, and Cadet Accident/Liability Coverage. On October 27 the Army Advisory Panel on ROTC Affairs will meet in general session to formulate recommendations, consider progress made on previous Panel recommendations, and to select a date for the next Panel meeting.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 88-22404 Filed 9-28-88; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Remedial Order to Howell Corp. et al.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Howell Corporation, Howell Hydrocarbons, Inc., Howell Industries, Inc., Quintana Refinery Co., Quintana-Howell Joint Venture and Quintana Petrochemical Corp.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to: Howell Corporation, 1010 Lamar Street, Houston, Texas 77002; Howell Hydrocarbons, Inc., 7811 S. Presa, San Antonio, Texas 78233; Howell Industries, Inc., c/o C. T. Corporation, 811 Dallas Street, Houston, Texas 77002; Quintana Refinery Co. and Quintana Petrochemical Corp., P.O. Box 3331, Houston, Texas, 77253; and Quintana-Howell Joint Venture, c/o 1010 Lamar Street, Houston, Texas 77002 and P.O. Box 3331, Houston, Texas 77253. The Proposed Remedial Order alleges that Howell Corporation and Quintana Refinery, joint venturers in the Quintana-Howell Joint Venture, evaded obligations under the Entitlements Program in violation of 10 CFR 205.202 and 10 CFR 210.62(c) with regard to the operation of their Corpus Christi, Texas refinery. The amount by which the participants benefitted as a result of the violations is \$10,322,848.09. The Proposed Remedial Order also alleges that Howell Corporation and Howell Hydrocarbons evaded obligations under the Entitlements Program with respect to operation of their San Antonio, Texas refinery. The amount by which the participants benefitted as a result of these violations is \$11,818,263.38. Finally, the Proposed Remedial Order

alleges that Howell Industries, Inc. violated the anti-layering and pricing provisions of the regulations applicable to crude oil resales (10 CFR Part 212, Subpart L) in the amount of \$7,017,576.00 (layering) and \$4,691,391.34 (pricing). The effect of the violations, which occurred between January 1, 1978 and December 31, 1980, is nationwide.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon:

Sandra K. Webb, Director, Economic Regulatory Administration, U.S. Department of Energy, Concorde Tower, 1919 Smith Street, Box 112, Suite 400, Houston, Texas 77002

and upon:

Diana D. Clark, Director, Administrative Litigation Division, U.S. Department of Energy, 1000 Independence Ave., SW., RG-32, Washington, DC 20585

Issued in Washington, DC on the 23rd of September 1988.

Milton C. Lorenz,

Chief Counsel for Enforcement Litigation, Economic Regulatory Administration.

[FR Doc. 88-22393 Filed 9-28-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-619-000, et al.]

Gulf States Utilities Company, et al., Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 26, 1988.

Take notice that the following filings have been made with the Commission:

1. Gulf States Utilities Company

[ER88-619-000]

Take notice that on September 20, 1988, Gulf States Utilities Company (Gulf States) tendered for filing an initial rate schedule, Rate Schedule PDS-GSU (Stauffer), applicable to transmission service to be provided to the City of Lafayette, Louisiana (Lafayette) with respect to Lafayette's sale of power and energy to Stauffer Chemical Company (Stauffer). Gulf States represents that the rates under Rate Schedule PDS-GSU (Stauffer), including the rate design, are based upon, and are identical to, Gulf States' transmission service rates approved by the Commission in Docket No. ER85-538-001.

Copies of the filing were served upon the City of Lafayette, Stauffer Chemical Company, and the Louisiana Public Service Commission.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. The United Illuminating Company

[Docket No. ER88-617-000]

Take notice that on September 19, 1988, The United Illuminating Company (UI) tendered for filing (1) a Unit Sales Agreement (Agreement) made as of December 1, 1985 between UI and New England Power Company (NEP) and (2) a Notice of cancellation of the Agreement.

The Agreement provides for a sale of capacity and associated energy by UI from its New Haven Harbor Station to NEP. The parties request an effective date of December 1, 1985.

Copies of this filing were served upon NEP and the Public Utilities Commissions of Massachusetts and Rhode Island.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Mississippi Power & Light Company

[Docket No. ER88-614-000]

Take notice that on September 19, 1988, Mississippi Power & Light Company (MP&L) tendered for filing a letter agreement for sale of energy to the Tennessee Valley Authority, and a letter amending the price and quantity of a prior sale.

MP&L requests an effective date of August 18, 1988 for the letter agreement, and July 20, 1988 for the amendment letter. MP&L requests waiver of the Commission's notice requirements under § 35.11 of the Commission's Regulations.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Company Services, Inc.

[Docket No. ER88-611-000]

Take notice that on September 19, 1988, Southern Company Services, Inc. acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies) tendered for filing an amendment to an interchange contract and service schedule between Southern Companies and Florida Power & Light Company. The amendment extends the term of a replacement energy schedule under the interchange contract and includes Savannah Electric and Power Company as a party to the interchange contract.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Iowa-Illinois Gas and Electric Company

[Docket No. ER88-613-000]

Take notice that on September 19, 1988, Iowa-Illinois Gas and Electric Company (Iowa-Illinois) tendered for filing pursuant to Part 35 of the Commissions' regulations a Firm Power Transaction for the period May 1, 1988-October 31, 1988 (Transaction), dated May 1, 1988, between Iowa-Illinois and Iowa Power and Light Company (Iowa Power). This Transaction is provided for under Service Schedule J—Firm Power Interchange Service of the Mid-Continent Area Power Pool (MAPP) Agreement dated March 31, 1972, as amended, of which both parties are signatory participants. Service Schedule J has previously been accepted for filing by the Commission in FPC Docket No. E-7734, effective December 31, 1972.

The parties request an effective date of May 1, 1988. This date corresponds to the beginning of the MAPP summer season and accreditation requirements and, according to the parties, reflects the benefits accruing from the Transaction. A waiver of the Commission's notice requirements and any other applicable filing requirements under section 35 necessary for the implementation of the Transaction, as proposed, is requested.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Iowa-Illinois Gas and Electric Company

[Docket No. ER88-613-000]

Take notice that on September 19, 1988, Iowa-Illinois Gas and Electric Company (Iowa-Illinois) tendered for filing pursuant to Part 35 of the

Commission's regulations a Firm Power Transaction for the period May 1, 1988-October 31, 1988 (Transaction), dated May 1, 1988, between Iowa-Illinois and Iowa Power and Light Company (Iowa Power). This Transaction is provided for under Service Schedule J—Firm Power Interchange Service of the Mid-Continent Area Power Pool (MAPP) Agreement dated March 31, 1972, as amended, of which both parties are signatory participants. Service Schedule J has previously been accepted for filing by the Commission in FPC Docket No. E-7734, effective December 31, 1972.

The parties request an effective date of May 1, 1988. This date corresponds to the beginning of the MAPP summer season and accreditation requirements and, according to the parties, reflects the benefits accruing from the Transaction. A waiver of the Commission's notice requirements and any other applicable filing requirements under Section 35 necessary for the implementation of the Transaction, as proposed, is requested.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER88-583-000]

Take notice that on September 1, 1988, Southern California Edison Company (Edison) tendered for filing, as an initial rate schedule, the following contract, executed on August 22, 1988, by the respective parties: United States Department of Energy, Western Area Power Administration, Parker-Davis Project, and Southern California Edison Company for 161-kV Interconnection at Blythe Substation.

Edison's Blythe electric load is currently isolated from Edison's main system. The interconnection will allow Edison to close the Eagle Mountain tie and serve its Blythe electric load from its main system, as well as provide a point for other power transactions between Edison and Western.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this document.

8. Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, West Penn Power Company, (The APS Companies)

[Docket No. ER88-615-000]

Take notice that on September 19, 1988, Allegheny Power Service

Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (the APS Companies) tendered for filing an Agreement with American Municipal Power—Ohio, Inc. (AMP—Ohio) for transmission service by the APS Companies for AMP—Ohio for a period starting on September 1, 1988 and ending no later than December 31, 2008. The Agreement also provides for sales and purchases of power and energy between the APS Companies and AMP—Ohio.

The purpose of the Agreement is to establish new services between the APS Companies and AMP—Ohio for transmission service by the APS Companies for AMP—Ohio and for the purchaser and sale of power and entry to the mutual benefit of the parties. Pricing of the transactions was negotiated at arms' length and reflects current market and competitive conditions.

The parties have requested that the Agreement be permitted to become effective on September 1, 1988. Copies of the filing have been provided to AMP—Ohio, Elcom Metals Company, the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: October 11, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22311 Filed 9-28-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-451-006]

Northeast U.S. Pipeline Projects; Limited Waiver of Requirements Pertaining to Filing and Service of Environmental Information

September 22, 1988.

Pursuant to the Commission's "Order Establishing Guidelines for the Submission of Required Data" issued on July 27, 1988, in the above-captioned docket, 44 FERC ¶ 61,149, the sponsors of the 13 potentially competitive projects listed in Appendix C to the June 29, 1988 order in Docket No. CP87-451-007, 43 FERC ¶ 61,555, are required to file certain environmental information by close of business on September 26, 1988, and additional information by close of business on October 26, 1988.

On September 19, 1988, Champlain Pipeline Company filed a motion stating that, due to the magnitude of the required submissions of environmental data and the number of parties to the proceeding, the filing of 14 hard copies and the service of copies on all parties would result in unnecessary expense to the project sponsors. Therefore, Champlain requests a limited waiver, solely with respect to the two described submissions of environmental data, of the Commission's filing and service requirements set forth at 18 CFR 385.2004 and 18 CFR 385.2010(a), respectively. Specifically, Champlain requests that project sponsors be required to provide copies of environmental filings only to those parties that submit written requests to the project sponsors. Champlain also requests that project sponsors be required to file only three additional hard copies with the electronic tapes and original hard copies required to be filed with the Commission.

The Secretary finds that granting, in part, the requested limited waiver of the Commission's regulations is consistent with the public interest. However, six copies, rather than the requested three, are needed for the staff to process the data in a timely manner. Therefore, pursuant to the authority delegated to the Secretary by 18 CFR 375.302(i), a partial waiver of the Commission's filing and service requirements is granted. Accordingly, project sponsors shall be required, with respect to those submissions due to be filed in this proceeding on or before September 26, 1988 and October 26, 1988, respectively, (1) to file with the Commission only six photostatic copies in addition to the required electronic tapes and original hard copies, and (2) to provide copies of such submissions only to those parties

to this proceeding that make written requests for copies.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22309 Filed 9-28-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-802-000, et al.]

K N Energy, Inc., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. K N Energy, Inc.

[Docket No. CP88-802-000]

September 21, 1988.

Take notice that on September 14, 1988, K N Energy, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP88-802-000 a request pursuant to § 157.205(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205(b)) for authorization to construct and operate sales taps for the delivery of gas to end users under its blanket certificate issued in Docket Nos. CP83-140-000, CP83-140-001 and CP83-140-002 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of sales taps to five end users located in Chase, Clay, Pierce and Kearney Counties, Nebraska, and in Logan County, Kansas. Applicant states that the proposed sales would total 186 Mcf on a peak day and 3,800 Mcf annually and that this would have no significant impact on Applicant's peak day and annual deliveries.

Comment date: November 7, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Texas Gas Transmission Corporation and CSX NGL Corporation

[Docket No. CP84-31-004]

September 21, 1988.

Take notice that on September 2, 1988, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, and CSX NGL Corporation (CSX NGL), Two Houston Center, Suite 1900, 909 Fannin Street, Houston, Texas 77010, filed in Docket No. CP84-31-004, a joint petition to amend the order issued April 23, 1984, in Docket No. CP84-31-000, pursuant to section 7 of the Natural Gas Act so as to authorize the replacement "in kind" of certain gas owned by Texas Gas and processed by CSX NGL, at their Eunice,

Louisiana plant, by means of an exchange, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Texas Gas and CSX NGL state that they have previously received authorization in the subject docket to replace Plant Volume Reduction (PVR) in kind by means of an exchange, by delivering to Texas Gas at the Eunice, Louisiana plant, gas produced from certain identified sources.

Texas Gas and CSX NGL are seeking authority herein to amend the existing certificate to allow the use of additional sources of gas to replace PVR in the exchange option previously certificated, without prior approval of the specific sources of the gas. These additional sources of gas would consist of both (i) decontrolled gas, and (ii) gas with a maximum lawful price equal to or greater than the NGPA section 109 maximum lawful price, it is explained. Texas Gas and NGL propose that, if necessary, these specific sources of gas could be identified on a monthly basis by reporting such information to the Commission 30 days after the end of the month said supplies were utilized in the exchange.

In the alternative, should the authority to allow the use of the specific sources of gas referred to in the preceding paragraph not be approved for any reason, Texas Gas and CSX NGL propose that the existing certificate be amended to allow the use of both (i) decontrolled gas, and, (ii) specific sources of gas identified in the Application, in the present, certificated exchange option.

As a final alternative, and only in the event neither of the two alternatives set out above are approved by the Commission, Texas Gas and CSX NGL propose that the existing certificate be amended to allow the use of the specific sources of gas identified in the Application in the present, certificated exchange option.

Finally, Texas Gas and CSX NGL request an extension of the certificate on a permanent basis. The present certificate expires upon the acceptance of an Order 500 blanket certificate by Texas Gas.

Comment date: October 12, 1988, in accordance with Standard Paragraph F at the end of this notice.

CNG Transmission Corporation

[Docket No. CP88-779-000]

September 21, 1988.

Take notice that on September 9, 1988, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West

Virginia 26301, filed in Docket No. CP88-779-000 an application pursuant to section 7 of the Natural Gas Act for authorization to provide standby service for its Rate Schedule RQ and CD customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG proposes to render standby service to those Rate Schedule RQ and CD sales customers that convert to firm transportation and elect standby service. It is stated that buyers electing standby service would execute a new service agreement specifying a maximum daily standby quantity equal to the maximum daily transportation quantity under Rate Schedule TF. CNG also seeks authorization to abandon service upon termination of the respective service agreements.

CNG states that the subject proposal is consistent with the Stipulation and Agreement filed February 10, 1986, in Docket No. RP85-169-000 *et al.*, as amended on February 19, 1986. Additionally, it is stated that the proposed service is identical to the service already authorized by the Commission in CNG's last general rate proceeding in Docket No. RP85-169-00 and currently in effect.

Comment date: October 12, 1988, in accordance with Standard Paragraph F at the end of this notice.

Natural Gas Pipeline Company of America

[Docket No. CP88-812-000]

September 21, 1988.

Take notice that on September 15, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP88-812-000 a prior notice request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport on an interruptible basis on behalf of Quarles Drilling Corporation (Quarles), an end-user/producer of natural gas, under its blanket certificate issued in Docket No. CP86-582-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural proposes to transport on an interruptible basis pursuant to a gas transportation agreement dated June 14, 1988, up to a maximum of 2,000 MMBtu of natural gas (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS). Natural states that service commenced on July 12, 1988, as reported in Docket No. ST88-5094, pursuant to § 284.223(a) of the

Commission's Regulations. Natural further states that the average day and annual quantities would be 750 MMBtu and 273,750 MMBtu, respectively.

Comment date: November 7, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Natural Gas Pipeline Company of America

[Docket No. CP88-803-000]

September 21, 1988.

Take notice that on September 14, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP88-803-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport, on an interruptible basis, up to a maximum of 300,000 MMBtu per day of natural gas (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) for Golden Gas Energies, Inc. (Golden Gas), under Natural's blanket certificate issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural states that pursuant to an interruptible transportation agreement dated May 24, 1988, as amended, it proposes to transport the aforementioned quantity of gas for Golden Gas, a marketer of natural gas, from points of receipt located in Louisiana, offshore Louisiana, Texas, offshore Texas, Illinois, Oklahoma, New Mexico, Kansas, Iowa, Arkansas, and Nebraska to points of delivery located in Louisiana, Oklahoma, New Mexico, Illinois, Texas and Arkansas. Natural further states that while the transportation quantity for a peak day would be 300,000 MMBtu, the quantity transported on an average day is expected to be 20,000 MMBtu. Based on that average day quantity, the annual transportation volume is estimated to be 7,300,000 MMBtu. Finally, Natural advises that the transportation of natural gas for Golden Gas commenced on July 8, 1988, under § 284.223(a), as reported in Docket No. ST88-5690.

Comment date: November 7, 1988, in accordance with Standard Paragraph G at the end of this notice.

Columbia Gas Transmission Corporation

[Docket No. CP88-782-000]

September 22, 1988.

Take notice that on September 12, 1988, Columbia Gas Transmission

Corporation (Columbia Gas), 1700 MacCorkle Avenue, SE, Charleston, West Virginia 25314, filed in Docket No. CP88-782-000 a request pursuant to §§ 157.205 and 157.215 (18 CFR 157.205 and 157.215) of the Commission's Regulations under the Natural Gas Act to abandon by sale to Columbia Gas of Ohio, Inc. (COH) Columbia Gas' B-157 pipeline system consisting of 32.5 miles of various sized pipeline and all related facilities and properties. In addition, Columbia Gas requests authority to construct and operate a new point of delivery to COH, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gas proposes to abandon by sale to COH its B-157 pipeline system consisting of approximately 32.5 miles of various pipeline diameters and all related facilities and properties located in Franklin and Delaware counties, Ohio. The subject facilities currently serve 11 small distribution systems and 100 mainline COH customers directly from Columbia Gas' system. Columbia Gas does not serve any other customer from the facilities to be sold. COH will incorporate the subject facilities into its existing distribution system and continue the same service that is currently rendered by Columbia Gas. It is stated, that the purchase price of the facilities to be sold to COH is the original cost less related depreciation at the time of the sale, which was approximately \$690,000 as of December 31, 1987.

Related to the abandonment and sale, Columbia Gas proposes to construct and operate a meter and regulator station in Franklin County, Ohio, at the interconnection of Columbia Gas' 20-inch transmission pipeline and the facilities to be sold, for the delivery of gas to COH. It is stated that COH will reimburse Columbia Gas for the cost of construction and installation, estimated to be \$336,000, of the delivery point.

The estimated deliveries of natural gas to be provided COH of 28,671 Dt and 3,006,065 Dt for peak day and annual requirements, respectively, are within Columbia Gas' currently authorized levels of service. No new or additional sales of gas are proposed by Columbia Gas in the request for permission to abandon the subject facilities by sale to COH. COH indicates that the end-use of the gas will continue to be the same as that presently served by Columbia Gas which is residential, commercial and industrial.

Comment date: November 7, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. Boston Gas Company (Boston Gas)

[Docket No. CP88-799-000]

September 22, 1988.

Take notice that on September 13, 1988, Boston Gas Company (Boston Gas), One Beacon Street, Boston, Massachusetts 02184, filed in Docket No. CP88-799-000 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Algonquin Gas Transmission Company (Algonquin) to extend its transportation facilities and establish a connection in order for Boston Gas to provide service for the Town of Braintree, Massachusetts, Electric Light Department (Braintree), all as more fully set forth in the application which is on file with the Commission and open to public inspection. In the alternative, and only if the Commission determines that it cannot issue the relief requested herein, Boston Gas requests consolidation of this proceeding with Docket No. CP88-167-000 in order that a comparative hearing be established to determine which of the two proposals before the Commission better serves the public interest.

Boston Gas desires Algonquin to extend its existing transportation facilities so that Boston Gas will be able to provide an interruptible natural gas service to Braintree's 96 megawatt electric generating facility located on Potter Street, Braintree. To effectuate this service, Algonquin will need to construct and operate certain facilities including 2.2 miles of 16-inch pipeline connecting its existing 10-inch lateral line in Braintree, Norfolk County, Massachusetts, to a new meter station to be constructed in East Braintree, Massachusetts (located near Braintree's electric generating plant at Potter Street).

Once these facilities are constructed and operational, Braintree will be able to receive firm transportation service of 21,660 MMBtu/day for 365 days from the East Braintree meter station to the new Potter Street meter station. Additionally, Boston Gas will be able to provide Braintree with a gas supply service of 21,660 MMBtu/day for 300 days or more on a best efforts basis. Boston Gas will provide such gas service from its now system supply.

Comment date: October 13, 1988, in accordance with Standard Paragraph F at the end of his notice.

8. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP88-780-000]

September 23, 1988.

Take notice that on September 9, 1988, Northern Natural Gas Company,

Division of Enron Corp., (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP88-780-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223), under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, to (1) reassign certain quantities of seasonal service gas to be delivered between existing delivery points, (2) to construct, operate and maintain one additional measurement station to accommodate natural gas deliveries to the community of St. Cloud, Minnesota, and (3) to modify the existing town border station at St. Joseph, Minnesota, all for service by Northern States Power Company (NSP), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that, by letter dated July 27, 1988, NSP advised that it wished to realign certain volumes purchased under Northern's Rate Schedule SS-1 between the existing St. Paul delivery point and the existing Sartell, St. Cloud and St. Joseph delivery points as follows:

Delivery point	Volumes (Mcf per day)		Total change
	Existing SS-1	Proposed SS-1	
St. Paul	22,213	12,213	(10,000)
Sartell	139	2,200	2,061
St. Joseph	215	900	685
St. Cloud No. 1	3,361	10,615	7,254
St. Cloud No. 2 (new)	0	0	0
Total	25,928	25,928	0

It is stated that the realignment is within the firm entitlement presently authorized for NSP and that the volumes to be reassigned are presently sold to NSP under Rate Schedule SS-1 of Northern's FERC Gas Tariff, Third Revised Volume No. 1. It is stated further that no changes are proposed for CD-1, WPS-1 and PS-1 volumes sold and delivered by Northern to NSP.

Northern also requests authority to construct, operate and maintain a second measurement station at Stearns County, Minnesota, to accommodate increased natural gas deliveries to the community of St. Cloud, Minnesota, to be served by NSP. Northern states that the estimated quantities to be delivered to NSP for residential and commercial use at the subject delivery point, in the fifth year of service, would be 6,898 Mcf

for a peak day and annually 739,153 Mcf which is within its currently authorized firm entitlement.

Northern further requests authority to modify one delivery point for NSP, where Northern is currently authorized to utilize a town border station at St. Joseph. Northern states that proposed volumes to be delivered to NSP would be 3,252 Mcf for a peak day and 367,963 Mcf annually and within its currently authorized firm entitlement.

Comment date: November 7, 1988, in accordance with Standard Paragraph G at the end of this notice.

9. Pelican Interstate Gas System

[Docket No. CP88-763-000]

September 23, 1988.

Take notice that on September 6, 1988, Pelican Interstate Gas System (Pelican), 1600 Smith Street, Suite 3075, Houston,

Texas, 77002, filed in Docket No. CP88-763-000 an application as supplemented September 19, 1988, pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Pelican to transport up to a maximum of 65,000 MMBtu of natural gas per day on an interruptible basis for the account of Sun Operating Limited Partnership (Sun), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Pelican has entered into a Gas Transportation Agreement dated August 1, 1988, to provide on an interruptible basis transportation of up to a maximum of 65,000 MMBtu per day of natural gas for Sun for a primary term of one (1) year from the date of first delivery of gas and continuing month to month thereafter.

Pelican states that it will receive volumes of gas for the account of Sun at the existing subsea interconnection of the pipeline facilities of Pelican and those of Sun in High Island Block 129, offshore Texas. Pelican proposes to transport and redeliver such gas at the existing onshore terminus of Pelican's pipeline facilities located at the Mobil Cameron Meadows plant in Cameron Parish, Louisiana. Pelican has provided information regarding the ultimate recipients of the gas, states of consumption, volumes and transporters of the gas which is attached as an appendix.

Pelican proposes to charge Sun a transportation fee of three and three-tenths cents (3.3 cents) per Mcf of gas received for transportation.

Comment date: October 14, 1988, in accordance with Standard Paragraph F at the end of this notice.

I.(A) Recipients	I.(B) States of consumption	I.(C) Volume/ MCFD	II.(A)/(B) Transporters	Sellers of gas	Authorization
NOPSI.....	LA	10,000	LRC/311.....	Sun	CI 86-33-003, 01/15/88.
ALCOA.....	IA	15,000	NGPL/311.....	do	CI 86-33-003, 01/15/88.
Bethlehem Steel.....	IN, PA, MD, NY	20,000	do	do	CI 86-33-003, 01/15/88.
Dow Chemical.....	LA	10,000	NGPL/311.....	do	CI 86-33-003, 01/15/88.
International Paper.....	AR, TX	20,000	NGPL/436.....	do	CI 86-33-003, 01/15/88.
MRT.....	MO, IL, AR	15,000	do	do	CI 86-33-003, 01/15/88.
Alabama-Tennessee.....	AL	20,000	COL. GULF/436.....	do	CI 86-33-003, 01/15/88.
B.P. Chemicals.....	OH	15,000	ANR/311.....	do	CI 86-33-003, 01/15/88.
National Steel.....	IL, MI, IN	20,000	ANR/NGPL/311/ 436.....	do	CI 86-33-003, 01/15/88.
Consumers Power.....	MI	20,000	ANR/311/436.....	do	CI 86-33-003, 01/15/88.
GAF Chemical.....	WS, KY, MD, PA	3,000	ANR/311.....	do	CI 86-33-003, 01/15/88.
DuPont.....	TN, OH, MI, TN	20,000	COL. GULF/311/ 436, ANR/311, TENN./311.....	Sun	CI 86-33-003, 01/15/88.
LGS.....	LA	10,000	NGPL/436.....	do	CI 86-33-003, 01/15/88.
AGRICO.....	LA	20,000	LRC/311.....	do	CI 86-33-003, 01/15/88.
NIGAS.....	IL	20,000	NGPL/311/436, ANR/311.....	do	CI 86-33-003, 01/15/88.

10. Midwestern Gas Transmission Company

[Docket No. CP88-800-000]

September 23, 1988.

Take notice that on September 13, 1988, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77252-2511, filed in Docket No. CP88-800-000 an application pursuant to section 7(c) of the Natural Gas act for a certificate of public

convenience and necessity to transport natural gas on behalf of Western Gas Marketing USA Ltd. (WGML), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Midwestern requests authorization to transport on behalf of WGML, on an interruptible basis, up to 400,000 dt equivalent of gas per day. Midwestern, it is said, would receive such gas at the United States-Canadian border at

Emerson, Manitoba, and redeliver gas to WGML at delivery points in N. Branch, Minnesota, Genola, Minnesota, Cambridge, Minnesota and Marshfield, Wisconsin.

For this transportation service, Midwestern represents that it would charge WGML a transportation rate as set forth in Midwestern's rate schedule IT-2.

Midwestern avers that the transportation agreement would remain

in force for a term of ten years from the date of initial deliveries.

Comment date: October 14, 1988, in accordance with Standard Paragraph F at the end of this notice.

11. United Gas Pipe Line Company

[Docket No. CP88-816-000]

September 22, 1988.

Take notice that on September 15, 1988, United Gas Pipe Line Company (United) P.O. Box 1478, Houston, Texas 77251-1478, pursuant to its blanket certificate of public convenience and necessity issued in Docket No. CP82-430-000, filed in Docket No. CP88-816-000, a request pursuant to § 157.216(b) of the Commission's Regulations for authorization to abandon metering facilities on its system formerly being used to serve the Town of Rayville, Louisiana (Rayville), at its electric generating plant in Richland Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that Rayville has consented to the proposed abandonment of facilities. United further states that the abandonment will be accomplished without detriment or disadvantage to its other existing customers and that the proposed activity is in compliance with the procedures in Part 157, subpart F, Appendix I, as it relates to Environmental Compliance.

Comment date: November 7, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by

sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary,

[FR Doc. 88-22308 Filed 9-28-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. MT88-10-001, et al.]

Ringwood Gathering Company, et al.; Natural Gas Pipeline Rate Filings

September 26, 1988.

Take notice that the following filings have been made with the Commission:

1. Ringwood Gathering Company

[Docket No. MT88-10-001]

Take notice that on September 21, 1988, Ringwood Gathering Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1: First Revised Sheet No. 65, Superseding Original Sheet No. 65
First Revised Sheet No. 66, Superseding Original Sheet No. 66
First Revised Sheet No. 74, Superseding Original Sheet No. 74
Original Sheet No. 97
Original Sheet No. 98

Original Sheet No. 99
Original Sheet No. 100
Original Sheet No. 101
Original Sheet No. 102

Comment date: October 3, 1988, in accordance with Standard Paragraph K at the end of this notice.

2. CNG Transmission Corporation

[Docket No. MT88-15-001]

Take notice that on September 21, 1988, CNG Transmission Corporation tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and section 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 122, Superseding Original Sheet No. 122
Original Sheet No. 122A
Original Sheet No. 133
Original Sheet No. 134
Original Sheet No. 135

Comment date: October 3, 1988, in accordance with Standard Paragraph K at the end of this notice.

3. Trunkline Gas Company

[Docket No. MT88-22-001]

Take notice that on September 21, 1988, Trunkline Gas Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet No. 9-BY
Original Sheet No. 9-BY.1
First Substitute First Revised Sheet No. 9-CC
First Revised Sheet No. 9-DC
Original Sheet No. 9-DC.1
First Revised Sheet No. 9-DG

Comment date: October 3, 1988, in accordance with Standard Paragraph K at the end of this notice.

4. Valero Interstate Transmission Company

[Docket No. MT88-28-000]

Take notice that on September 20, 1988, Valero Interstate Transmission Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497 and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1:

3rd Revised Sheet No. 1
3rd Revised Sheet No. 22
1st Revised Sheet No. 29.2
Original Sheet No. 29.2a
Original Sheet No. 29.2b
1st Revised Sheet No. 29.4
1st Revised Sheet No. 29.5

Original Sheet No. 29.5a
Original Sheet No. 29.5b
Original Sheet No. 29.10
2nd Revised Sheet No. 50
2nd Revised Sheet No. 51
3rd Revised Sheet No. 53
3rd Revised Sheet No. 54
Original Sheet No. 63
Original Sheet No. 63.1
Original Sheet No. 64-65

Comment date: October 3, 1988, in accordance with standard Paragraph K at the end of this notice.

Standard Paragraph

K. Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22307 Filed 9-28-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-258-000]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 26, 1988.

Take notice that on September 19, 1988, Southern Natural Gas Company (Southern) tendered for filing the following tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective October 1, 1988:

First Revised Sheet No. 30L
Original Sheet No. 30L.1
Second Revised Sheet No. 30M
First Revised Sheet No. 30Q
Original Sheet No. 30Q.1
Third Revised Sheet No. 30S
Third Revised Sheet Nos. 30U-30V
First Revised Sheet No. 30Z.1
First Revised Sheet No. 30II
Original Sheet No. 30II.1
Third Revised Sheet No. 30KK
Third Revised Sheet Nos. 30MM-30NN
Fourth Revised Sheet No. 30RR
First Revised Sheet No. 30RR.1
First Revised Sheet No. 45R.8
Original Sheet Nos. 45R.8a-45R.8b
Second Revised Sheet No. 45R.9
First Revised Sheet Nos. 45R.29-45R.30
Second Revised Sheet Nos. 53L.30-53L.31
First Revised Sheet No. 53L.35
Original Sheet No. 53L.35a

Second Revised Sheet No. 53L.36
Original Sheet No. 53L.38a
First Revised Sheet No. 53L.39
Second Revised Sheet No. 53L.41
Second Revised Sheet No. 53L.47
First Revised Sheet No. 53L.51
First Revised Sheet Nos. 53L.54-53L.55

Southern states that it submits the revised sheets listed above to effect certain changes to its Rate Schedules FT and IT, the General Terms and Conditions thereto, and Forms of Service Agreement under Rate Schedules FT and IT which will allow shippers increased flexibility in transporting on Southern's system as well as simplify the administration of requests and contracts for transportation services. Southern has requested a waiver of the Commission's Regulations to make all of the revised sheets effective October 1, 1988, as indicated above.

Southern states that copies of the filing were mailed to all of Southern's jurisdictional purchasers, shippers, and interested state commissions, as well as the parties listed on the Commission's official service list compiled in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before October 3, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-22310 Filed 9-28-88; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Requirement Approval by Office of Management and Budget

September 22, 1988.

The following information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact Doris Benz, Federal

Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0104.

Title: Temporary Permit To Operate a Part 90 Radio Station.

Form No.: FCC 572.

The approval on form FCC 572 been extended through 8/31/91. The September 1985 edition with a previous expiration date of 8/31/88 will remain in use until updated forms are available.

OMB No.: 3060-0079.

Title: Application to Renew or Modify and Amateur Club, RACES, or Military Recreation Station License.

Form No.: FCC 610-B.

The approval on form FCC 610-B has been extended through 8/31/91. The March 1986 edition with a previous expiration date of 8/31/88 will remain in use until updated forms are available.

OMB No.: 3060-0054.

Title: Application for Exemption form Ship Radio Station Requirements.

Form No.: FCC 820.

The approval on form FCC 820 has been extended through 8/31/91. The October 1987 edition with a previous expiration date of 8/31/88 will remain in use until updated forms are available.

H. Walter Feaster III,

Acting Secretary.

[FR Doc. 88-22296 Filed 9-28-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearings; Lakeside Broadcasting, Inc., et al.

1. The Commission has before it the following groups of mutually exclusive applications for new FM stations:

I.

Applicant, city, and State	File No.	MM Docket No.
A. Lakeside Broadcasting, Inc., Lakeland, GA.	BPH-87091MH	88-444
B. Hanson R. Carter, Lakeland, GA.	BPH-870910NV	
C. Willie Frank Calhoun, Lakeland, GA.	BPH-870910OC	

Issue heading and applicants

1. Financial, C
2. Air Hazard, C
3. Comparative, A.B.C
4. Ultimate, A.B.C

II.

Applicant, city, and State	File No.	MM Docket No.
A. United Community Enterprises, Inc., Greenwood, SC.	BPH-871106MA	88-443
Radio Greenwood, Partnership, Greenwood, SC.	BPH-871109MK	

Issue heading and applicants

1. Environmental, A,B
2. Comparative, A,B
3. Ultimate, A,B

III.

Applicant, city, and State	File No.	MM Docket No.
A. OARA, Inc., Madisonville, TX.	BPH-870327MG	88-454
B. Mary F. Watkins, Madisonville, TX.	BPH-870331MQ	
C. Michael C. Glitsch, Madisonville, TX.	BPH-870331NN	
D. Joe Abernathy d/b/a Heartland Communications, Madisonville, TX.	BPH-870331PO	
E. Boswell Broadcasting, Inc., Madisonville, TX.	BPH-870415MK	

Issue heading and applicants

1. Financial Qualification, B
2. Multiple Ownership, B
3. Comparative, A-E
4. Ultimate, A-E

IV.

Applicant, city, and State	File No.	MM Docket No.
A. Jean Bates, Barstow, CA.	BPH-851029MI	88-461
B. Bruce W. Gary, Barstow, CA.	BPH-851029MJ	
C. B&B Broadcasting, Inc., Barstow, CA.	BPH-851030MS	
D. Limelight Broadcasting Corp., Barstow, CA.	BPH-851030NJ	

Issue heading and applicants

1. Comparative, A,B,C,D
2. Ultimate, A,B,C,D

V.

Applicant, city, and State	File No.	MM Docket No.
A. Sanders Broadcasting Company Limited Partnership, Greenwood, IN.	BPH-870729MB	88-468

Applicant, city, and State	File No.	MM Docket No.
B. Julia M. Carson, Greenwood, IN.	BPH-870729MC	88-443
C. Metro Broadcasting, d/b/a Greenwood Media, Greenwood, IN.	BPH-870729MD	
D. Greater Greenwood Broadcasting Limited Partnership, Greenwood, IN.	BPH-870729ME	88-443
E. Heartland Radio Limited Partnership, Greenwood, IN.	BPH-870729MK	

Issue heading and applicants

1. Comparative, A,B,C,D,E
2. Ultimate, A,B,C,D,E

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in consolidated proceeding upon the issues listed above for each proceeding. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to that particular applicant.

3. Non-standardized issues in these proceedings, are set forth in an Appendix to this Notice. A copy of the complete HDO's in these proceedings are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division,
Mass Media Bureau.

[FR Doc. 88-22294 Filed 9-28-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearings; Maricopa County Community College District, et al.

1. The Commission has before it the following groups of mutually exclusive applications for new FM stations:

I.

Applicant, city, and State	File No.	MM Docket No.
A. Maricopa County Community College District, Phoenix, AZ.	BPED-860624MC	88-442
B. Sun Health Corporation, Phoenix, AZ.	BPED-870626MB	
C. Arizona Board of Regents For Arizona State University, Phoenix, AZ.	BPED-870626MC	88-442
D. Western Broadcasting Corporation, Phoenix, AZ.	BPED-870629MA	
E. Radio Alliance Phoenix, Phoenix, AZ.	BPED-870629NO	88-442

Issue heading and Applicant(s)

1. Main Studio, A
2. Environmental, A,C,E
3. Comparative-Noncommercial Educational FM, All Applicants
4. Ultimate, All Applicants

II.

Applicant, city, and State	File No.	MM Docket No.
A. Brock Broadcasting Company, Margate City, NJ.	BPH-870922MI	88-445
B. Margate Communications Limited Partnership, Cleo Brooks, General Partner, Margate City, NJ.	BPH-870922MT	
C. Coastal Communications Limited Partnership, Margate City, NJ.	BPH-870922ME (Previously dismissed).	88-445

Issue heading and applicant(s)

1. (See Appendix), A
2. Air Hazard, A
3. Environmental, B
4. Comparative, A,B
5. Ultimate, A,B

Appendix—Additional Issue Paragraph

1. (a) To determine whether A (Brock) has reasonable assurance that the transmitter site specified will be available to it; (b) to determine, in light of the facts and circumstances adduced pursuant to (a) above, whether A (Brock) misrepresented facts to or concealed information from the Commission; and (c) to determine, in light of the facts adduced pursuant to

the foregoing issues, whether A (Brock) possesses the basic qualifications to be the licensee of the facilities sought here.

III.

Applicant, city, and State	File No.	MM Docket No.
A. William H. Zeliff, Jr., Jackson, NH.	BPH-871029MA	88-446
B. Walter B. Preble III and Daniel R. Guy, a Partnership, Jackson, NH.	BPH-871029MC	
C. Douglas Kent Poor, Jackson, NH.	BPH-871029MF	
D. Gladys E. Powell, Jackson, NH.	BPH-871029MI	

Issue heading and applicants

1. Ultimate, A,B,C, & D
2. Comparative, A,B,C, & D

IV.

Applicant, city, and State	File No.	MM Docket No.
A. Skyline Broadcasting Company, Charlottesville, VA.	BPH-870424MB	88-440
B. Rita A. Capobianchi d/b/a Green Valley Broadcasting, Charlottesville, VA.	BPH-870429MA	
C. Eighty-Ninety Broadcast Group, Inc., Charlottesville, VA.	BPH-870429MB	
D. McClenahan Broadcasting Inc., Charlottesville, VA.	BPH-870429MI	
E. Timothy FM Limited Partnership, Charlottesville, VA.	BPH-870430MA	
F. Spectrum Broadcasting Corporation, Charlottesville, VA.	BPH-870430MB	
G. Jefferson Broadcasting Corporation, Charlottesville, VA.	BPH-870430MC	
H. College Town Radio Limited Partnership, Charlottesville, VA.	BPH-870430ME	
I. K. B. Communications, Inc., Charlottesville, VA.	BPH-870430MG	
J. Communication Audio Video Corporation, Charlottesville, VA.	BPH-870430MJ	

Issue heading and applicant(s)

1. Environmental Impact, A,B,F
2. Comparative, A11
3. Ultimate, A11

V.

Applicant, city, and State	File No.	MM Docket No.
A. Telecommunications Network, Inc., Utica, NY.	BPH-860131MH	88-447
B. Welden, Brevoort, Hickman, Inc., Utica, NY.	BPH-860203MW	
C. Deborah H. Lanava, Utica, NY.	BPH-860203MX	
D. Clara Crocco, Utica, NY.	BPH-860203MY	
E. Don H. Barden, Utica, NY.	BPH-860203MZ	

Issue heading and applicants

1. Environmental, A
2. Air Hazard, A, B, D
3. Comparative, All
4. Ultimate, All

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in consolidated proceedings upon the issues listed above for each proceeding. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to that particular applicant.

3. Non-standardized issues in these proceedings, are set forth in an Appendix to this Notice. A copy of the complete HDO's in these proceedings is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division,
Mass Media Bureau.

[FR Doc. 88-22293 Filed 9-28-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the

Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010776-036.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Line, Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Lines, Inc.
Sea-Land Service Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed modification would amend Article 14 of the Agreement to provide that members may, by vote of unanimous less two, authorize the Executive Committee or any other Committee to negotiate and execute Agreement service contracts in accordance with terms and procedures contained in such authority.

Agreement No.: 203-011211-002.

Title: Transpacific Discussion Agreement.

Parties:

Nippon Yusen Kaisha
American President Lines, Ltd.
Mitsui O.S.K. Lines, Ltd.
Sea-Land Service, Inc.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Evergreen Marine Corp. (Taiwan) Ltd.
Yangming Marine Transport Corp.
Neptune Orient Lines, Ltd.
Hyundai Merchant Marine Co., Ltd.
Nippon Liner System, Ltd.

Synopsis: The proposed modification would add Hanjin Container Lines, Ltd. as a party to the agreement. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: September 26, 1988.

[FR Doc. 88-22343 Filed 9-28-88; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Reissuance of License; American Forwarding Co.

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No.	Name/address	Date reissued
2501	American Forwarding Company, P.O. Box 10331, Dallas, TX 75207.	Sept. 9, 1988.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 88-22277 Filed 9-28-88; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations; Janel International Forwarding Co. Inc., of Illinois, et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2579.

Name: Janel International Forwarding Co. Inc. of Illinois.

Address: AMF O'Hare, P.O. Box 66589, Chicago, IL 60666.

Date Revoked: August 30, 1988.

Reason: Surrendered license voluntarily.

License Number: 2595-R.

Name: Setco International Forwarding Corporation.

Address: 6211 W. Northwest Hwy., Suite C-150, Dallas, TX 75225.

Date Revoked: September 7, 1988.

Reason: Failed to maintain a valid surety bond.

License Number: 1522.

Name: Inter-Hemisphere Service Co., Inc.

Address: 1601 West Edgar Road—Bldg. A, Linden, N.J. 07036.

Date Revoked: September 14, 1988.

Reason: Failed to maintain a valid surety bond.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 88-22278 Filed 9-28-88; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to approve a new information collection, Public Voucher for Transportation Discrepancy Report, SF-1113.

AGENCY: Office of Transportation Audits, Federal Supply Service, GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW., Washington, DC 20405.

Annual Reporting Burden: Although the number of firms responding is not known, approximately 2.5 million SF 1113's are filed per year, taking approximately 20,833 hours to complete. However, information provided on the SF 1113 is the same as that supplied to commercial clients using commercial freight bills. An analysis of 83 private industry vouchers revealed an average of 14 data elements per voucher. The SF 1113 has only 10 data elements. The Government supplies most of the information for the GBL. Therefore, the Government forms are less burdensome to industry than use of private industry vouchers.

Purpose: Standard Form (SF) 1113 is for use by carriers in billing charges for freight, express, or passenger transportation furnished to the U.S. Government.

FOR FURTHER INFORMATION CONTACT: Betty J. Brown, (202) 786-3011.

Copy of Proposal: Readers may obtain a copy of the proposal from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7691.

Dated: September 22, 1988.

Mary L. Cunningham,

Acting Director, Information Management Division (CAI).

[FR Doc. 88-22301 Filed 9-28-88; 8:45 am]

BILLING CODE 6820-24-M

HEALTH AND HUMAN SERVICES DEPARTMENT

Social Security Administration; Statement of Organization, Functions and Delegation of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of

Health and Human Services (HHS) covers the Social Security Administration (SSA). Notice is hereby given that the following organizational units are being revised to reflect the consolidation of SSA's systems and operations functions: (1) Chapter S2, Office of the Deputy Commissioner, Operations, and Subchapter S2D, Office of the Regional Commissioner, as last amended at 53 FR 569, January 8, 1988, Subchapter S2P, Office of Central Operations (ODCO), at 52 FR 10815, April 3, 1987; and (3) Chapter S4 Office of the Deputy Commissioner of Systems (ODCS), at 52 FR 10818-19, April 3, 1987. These changes would delete the Office of the Deputy Commissioner, Systems and transfer all of its function to the Office Deputy Commissioner, Operations. This Office will not be responsible for coordinating and managing SSA's systems and operations function.

I. Delete Chapter S4 and its accompanying subchapters in their entirety.

II. Chapter S2 is revised as follows:

Chapter S2

Office of the Deputy Commissioner, Operations

S2.00 Mission

S2.10 Organization

S2.20 Functions

Section S2.00 *The Office of the Deputy Commissioner, Operations—(Mission):*

The Office of the Deputy Commissioner, Operations directs and manages central office and geographically dispersed operations installations. It oversees regional operating programs and program management activities. It oversees the planning and implementation of studies and actions to improve the operational effectiveness and efficiency of its components. Directs the conduct of systems and operational integration and strategic planning processes, and the implementation of a comprehensive systems configuration management, data base management and data administration program. Initiates software and hardware acquisition for SSA and oversees software and hardware acquisition procedures, policies and activities. Directs the development of operational and programmatic specifications for new and modified systems, and oversees development, validation and implementation phases.

Section S2.10 *The Office of the Deputy Commissioner, Operations—(Organization):*

The Office of the Deputy Commissioner, Operations (ODCO), under the leadership of the Deputy Commissioner, Operations includes:

A. The Deputy Commissioner, Operations (S2D).
B. The Assistant Deputy Commissioner, Operations (S2).
C. The Office of Regional Operations (S2D).

D. The Office of Central Processing (S2E).

E. The Office of Systems Support (S2G).

F. The Immediate Office of the Deputy Commissioner, Operations (S2A), which includes:

1. The Office of Planning and Operations Management (S2A-1).

Section S2.20 *The Office of the Deputy Commissioner, Operations*—(Functions):

A. The Deputy Commissioner, Operations (DCO) (S2) is directly responsible to the Commissioner for carrying out ODCO's mission and providing general supervision to the major components of ODCO.

B. The Assistant Deputy Commissioner, Operations (S2) assists the Deputy Commissioner in carrying out his/her responsibilities, and performs other duties as the Deputy Commissioner may prescribe.

C. The Office of Regional Operations (S2D) is responsible for managing and directing a nationwide network of district offices (DO), branch offices (BO), teleservice centers (TSC) and program service centers (PSC) responsible for the Retirement, Survivors and Disability Insurance (RSDI) programs, the Black Lung Benefits program and the Supplemental Security Income (SSI) program. Provides administrative support to the Office cited above.

D. The Office of Central Processing (S2E) is responsible for managing and directing SSA's central office processing components. These components establish and maintain basic records supporting Social Security programs; process disability and black lung cases; process RSDI claims filed by persons in foreign countries; manage and coordinate the planning acquisition, implementation, operation and maintenance of SSA's computer and telecommunications installation, including hardware acquisition. Provides administrative support to central processing components.

E. The Office of Systems Support (S2G) is responsible for managing and directing SSA's systems support components. These components are responsible for requirements development, design, development, testing and validation for all

programmatic software, software maintenance, comprehensive systems integration and strategic planning, comprehensive software configuration management and data base management, and software acquisition procedures, policies and activities. Administrative support to systems support components will also be provided.

F. The Immediate Office of the Deputy Commissioner, Operations (S2A) provides the Deputy Commissioner with staff assistance on the full range of his/her responsibilities. It includes:

1. The Office of Planning and Operations Management (S2A-1) provides the Deputy Commissioner with a wide range of support activities affecting all DCO components, including budget review and approval, automated data processing (ADP) plan approval, strategic plan oversight, development of security policies and procedures, development of DCO-wide operating policy, operations analysis review, procurement plan review and approval, management analysis oversight and other related activities.

Subchapter S2 D

Office of Regional Operations

S2D.00 Mission

S2D.10 Organization

S2D.20 Functions

Section S2D.00 *The Office of Regional Operations*—(Mission):

The Office of Regional Operations is responsible for managing and directing a nationwide network of DOs, BOs, TSCs, regional offices and PSCs responsible for the RSDI programs, the Black Lung Benefits program and the SSI program. The Office is responsible for providing direct service to the public as well as processing the complex and integrated SSA programmatic workloads. The Office directs operational analysis and management support activities that evaluates and develops effective measures to ensure overall regional processes meet SSA program and administrative objectives.

Section S2D.10 *The Office of Regional Operations*—(Organization):

The Office of Regional Operations (ORO) under the leadership of the Associate Deputy Commissioner, Regional Operations includes:

A. The Associate Deputy Commissioner, Regional Operations (S2D).

B. The Assistant to the Associate Deputy Commissioner, Regional Operations (S2D).

C. The Immediate Office of the Associate Deputy Commissioner, Regional Operations (S2D).

D. The Office of the Regional Operations Support (S2DC).

E. The Office of the Regional Commissioner (S2DB1-S2DBX).

Section S2D.20 *The Office of Regional Operations*—(Functions):

A. The Associate Deputy Commissioner, Regional Operations (S2D) is directly responsible to the Deputy Commissioner, Operations, for carrying out ORO's mission and provides general supervision to the major components of ORO.

B. The Assistant to the Associate Deputy Commissioner, Regional Operations (S2D), assists the Associate Deputy Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Deputy Commissioner may prescribe.

C. The Immediate Office of the Associate Deputy Commissioner, Regional Operations (S2D), provides the Associate Deputy Commissioner and the Assistant to the Associate Deputy Commissioner with staff assistance on the full range of his/her responsibilities.

D. The Office of Regional Operations Support (S2DC).

1. Advises the Associate Deputy Commissioner, Regional Operations (S2D) on the full range of issues pertaining to headquarters' support to the SSA regional operations components.

2. Ensures effective ongoing liaison between SSA headquarters and the SSA regional operations components.

3. Ensures that the concerns of, and issues raised by, the regional operations components on proposed legislation, operations, policy, procedures, systems matters and management/administrative issues are addressed by the appropriate headquarters' components.

4. Coordinates with regional operations management in the identification of components' system needs and in the installation and evaluation of systems applications in all SSA programs which affect regional operations operating procedures and practices; develops requirements for security audit trails; analyses the impact of automation and develops staffing and ADP hardware needs; manages the implementation of office automation projects and provides user input to capacity planning systems performance issues.

5. Plans and coordinates a continuing program of operational analysis and management analysis throughout regional operations. Designs and implements studies to measure the overall effectiveness and efficiency of regional operations processes and

identifies and resolves operating problems and issues.

6. Formulates, executes and monitors the budget for the regional commissioners (RC); develops policy for regional operations facility placement and change; develops regional operations-wide delivery policy and conducts ongoing visitation program to regional operations components.

E. The Office of the Regional Commissioner (S2DB1-S2DBX) serves as the principal SSA component at the regional level and assures effective SSA interaction with HHS regional offices (RO), other Federal agencies in the regions, State welfare agencies, State Disability Determination Service (DDS) and other regional and local organizations. The Office provides regional program leadership and technical direction for the RSDI programs, the Black Lung Benefits program and the SSI program. It issues regional operating policy and procedures for these programs. It directs a regionwide network of DOs, BOs, TSCs and PSCs.

Section S2DB.00 The Office of the Regional Commissioner—(Mission):

The Office of the Regional Commissioner (ORC) serves as the principal SSA component at the regional level and assures effective SSA interaction with HHS ROs; other Federal agencies in the regions; State welfare agencies; State DDSs and other regional and local organizations. The Office provides regional program leadership and technical direction for the RSDI programs, the Black Lung Benefits program; and the SSI program. It issues regional operating policy and procedures for these programs and evaluates program effectiveness. It implements national operational and management plans for providing SSA service to the public, and directs a regionwide network of DOs, BOs, TSCs and PSCs. The Office manages and coordinates SSA regional operations and provides administrative support to SSA regional components. It establishes regional priorities and issues policy directives consistent with national program objectives, operational requirements and systems; and implements a regional SSA public affairs program. The Office maintains a broad overview of administrative operations of the ROs of SSA's Office of Hearings and Appeals (OHA) and data operation centers (DOC) to assure effective coordination of SSA activities at the regional level.

Section S2DB.10 The Office of The Regional Commissioner—(Organization):

The Office of the Regional Commissioner, under the leadership of the Regional Commissioner, includes:

A. The Regional Commissioner (S2DB1-S2DBX).

B. The Deputy Regional Commissioner (S2DB1-S2DBX).

C. The Immediate Office of the Regional Commissioner (S2DB1-S2DBX).

D. The Office of the Assistant Regional Commissioner for Programs (S2DB1B-S2DBXB).

E. The Office of the Assistant Regional Commissioner for Field Operations (S2DB14-S2DBX4).

F. The Office of the Assistant Regional Commissioner for Management and Budget (S2DB17-S2DBX7).

G. The SSA Program Service Centers (S2DBF2,3,4,5,7,9).

Section S2DB.20 The Office of The Regional Commissioner—(Functions):

A. The Regional Commissioner (S2DB1-S2DBX) are directly responsible to the Associate Deputy Commissioner, Regional Operations, for carrying out the RC's mission and managing their respective SSA regional organizations.

B. The Deputy Regional Commissioner (S2DB1-S2DBX) assists the RC in carrying out his/her responsibilities, and performs other duties as the RC may prescribe.

C. The Immediate Office of the Regional Commissioner (S2DB1-S2DBX) provides the RC with high-level staff assistance on the full range of his/her responsibilities. It also furnishes staff support for the civil rights, equal opportunity and external affairs functions.

D. The Office of the Assistant Regional Commissioner for Programs (S2DB1B-S2DBXB).

1. Provides program leadership and technical direction for the RSDI, SSI and Black Lung Benefits programs in the region. Issues regional operating policies and procedures necessary to ensure implementation of national policies for these programs. Establishes and maintains a field visit program covering DOs, BOs, DDSs, TSCs and PSCs to determine the effectiveness of RSDI, SSI and Black Lung Benefits program policies and procedures, and to provide technical assistance in the resolution of operational problems relating to these programs. Evaluates RSDI, SSI and the Black Lung Benefits program effectiveness in the region.

2. Assists State DDS agencies in developing their operating budgets, reviews these budgets with the Assistant Regional Commissioner for Management and Budget and submits recommendations on the acceptability of DDS budgets to the RC. Manages a

comprehensive review and analysis program covering State DDS agency operations.

3. Plans, directs and coordinates regional activities concerning Social Security coverage agreements between SSA and State or interstate entities; carries out negotiations with State or interstate authorities on the content of these agreements; makes recommendations to final approval officials regarding the execution of new coverage agreements, modifications in existing agreements, or the termination of agreements and processes requests for further extensions, or extensions for more than 1 year, of time limits for assessments, credits or refunds of amounts due.

4. Negotiates and maintains agreements with States covering the administration of optional State SSI supplementation, mandatory minimum State SSI supplementation and Medicaid eligibility determinations. Evaluates and monitors State budgets necessary to carry out these agreements and maintains ongoing dialogues with States on SSI program issues in such areas as adjustment levels, hold harmless provisions, operational aspects of the Food Stamp program, social service referral practices, etc. Directs the preparation of regional operations instructional material necessary to implement agreements negotiated with the States.

5. Oversees SSA regional ADP systems and automated processing operations, assures their effectiveness and carries out an ongoing regional systems planning program to assure effective integration of regional operating and management systems. Coordinates and monitors regional implementation of major changes to national systems on behalf of SSA's Central Office components dealing with systems activities.

6. Conducts operational analyses and provides support to regional operations management in the resolution of operational, procedural and systems problems. Consolidates, reviews and arranges for the distribution of regional program instructions and systems instructional material developed at the regional level. Coordinates with HHS' Rehabilitation Services Administration and other agencies to attain disability insurance (DI) Black Lung Benefits and SSI program goals. Maintains relationships with professional medical organizations, interacts with outside groups representing program interests or concerns and consults with representatives of community and

private organizations on operational matters.

E. The Office of the Assistant Regional Commissioner for Field Operations (S2DB14-S2DBX4).

1. Provides leadership, guidance and direction to DOs, BOs and TSCs, through area directors.

2. Ensures the consistency of field operations in the region with national and regional policies and procedures and is accountable for the effectiveness of these operations.

F. The Office of the Assistant Regional Commissioner for Management and Budget (S2DB17-S2DBX7).

1. Furnishes leadership and support to SSA regional operations components in the areas of financial, manpower and organization management and other areas of management concern.

2. Develops regional management policies, procedures and guidelines consistent with prevailing Federal, HHS and SSA requirements and objectives. Guides and controls regional administrative management operations and administrative practices. Evaluates component performance and needs in these areas to assure effective and economical use of available resources and takes appropriate action on behalf of the RC to remedy or correct any inefficiencies or undesirable practices uncovered in administrative management operations.

3. Furnishes financial management staff expertise and professional judgments required to compile and recommend effective regional/State operating budgets.

4. Coordinates regional operations administrative management issues and concerns with the HHS RO, SSA headquarters and other Federal-regional authorities.

5. Carries out the SSA regional security program.

G. The SSA Program Service Centers (S2DBF2, 3, 4, 5, 7, 9) (located at appropriate geographical locations throughout the United States).

1. Review and authorize payment or disallow claims for Retirement and Survivors Insurance (RSI)/DI benefits and health insurance (HI) entitlement; certify RSI/DI benefit amounts to the Treasury Department for payment and maintain RSI/DI benefit and HI records.

2. Determine whether and when eligibility or payments should be terminated, suspended, continued, increased or reduced in amount and reconsider determinations on initial claims and continuing eligibility.

3. Maintain RSI/DI payment rolls; recover or waive recovery of amounts incorrectly paid to RSI/DI beneficiaries; receive, record and deposit

Supplemental Medical Insurance (SMI) premium and overpayment refunds and make representative payee determinations and process related accountability reports.

4. Answer inquiries about individual RSI/DI cases and claims determinations and ensure expeditious processing of actions where inquiries indicate claimant hardship.

5. Receive and coordinate computer programs and exceptions on case processing; maintain accounting controls and assure, by sample audit, that magnetic tape records reflect actual authorized payment actions.

6. Coordinate PSC operations with the other components within ORC, other SSA components, the Railroad Retirement Board (RRB), the Veterans Administration, the United States Postal Service and other Federal agencies as required.

Section S2DC.00 *The Office of Regional Operations Support—(Mission):*

1. Advises the Associate Deputy Commissioner, Regional Operations (S2D) on the full range of issues pertaining to headquarters' support to the SSA regional operations components organization.

2. Ensures effective ongoing liaison between SSA headquarters and the SSA regional operations.

3. Ensures that the concerns of, and issues raised by, the regional operations on proposed legislation, operations, policy, procedures and systems matters are addressed by the appropriate headquarters' components.

4. Coordinates with regional operations management in the identification of field components' systems needs and in the installation and evaluation of systems applications in all SSA programs which affect regional operations operating procedures and practices; develops requirements for security audit trails; analyzes the impact of automation and develops staffing and ADP hardware needs; manages the implementation of office automation projects; provides user input to capacity planning systems performance issues.

5. Plans and coordinates a continuing program of operational analysis and management analysis throughout regional operations. Designs and implements studies to measure the overall effectiveness and efficiency of regional operations processes and identifies and resolves operating problems and issues.

6. Formulates, executes and monitors the budget for the RCs; develops policy for regional operations facility placement and change; develops regional operations-wide delivery policy

and conducts ongoing visitation program to regional operations components.

Subchapter S2E

Office of Central Processing

S2E.00 Mission

S2E.10 Organization

S2E.20 Functions

Section S2E.00 *The Office of Central Processing—(Mission):*

The Office of Central Processing is responsible for managing and directing SSA's central processing components. Provides executive leadership, direction and oversight to these components which establish and maintain basic records supporting Social Security programs, process disability and black lung cases, process RSDI claims filed by persons in foreign countries, and maintain related beneficiary rolls. Manages and directs planning, acquisition, implementation, operations and maintenance activities relating to SSA's computer and telecommunications installation including hardware acquisition.

Section S2E.10 *Office of Central Processing—(Organization):*

The Office of Central Processing (OCP) under the leadership of the Associate Deputy Commissioner, Central Processing includes:

A. The Associate Deputy Commissioner, Central Processing (S2E).

B. The Assistant to the Associate Deputy Commissioner, Central Processing (S2E).

C. The Immediate Office of the Associate Deputy Commissioner, Central Processing (S2E) which includes:

1. Central Processing Support Staff (S2E-1)

D. The Office of Central Records Operations (S2EA).

E. The Office of Disability and International Operations (S2EC).

F. The Office of Systems Operations (S2EB).

Section S2E.20 *Office of Central Processing—(Functions):*

A. The Associate Deputy Commissioner, Central Processing (S2E) is directly responsible to the Deputy Commissioner, Operations (DCO), for carrying out OCP's mission and provides general supervision to the major components of OCP.

B. The Assistant to the Associate Deputy Commissioner, Central Processing (S2E) assists the Associate Deputy Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Deputy Commissioner may prescribe.

C. The Immediate Office of the Associate Deputy Commissioner,

Central Processing (S2E) provides the Associate Deputy Commissioner and the Assistant to the Associate Deputy Commissioner with staff assistance on the full range of his/her responsibilities. It includes:

1. Central Processing Support Staff (S2E-1). Provides systems, operational administrative and analytical support to the Associate Deputy Commissioner for Central Processing. Develops, implements and monitors projects and analyses in the areas of Financial Management, Operations Analysis, and Technology Support.

D. The Office of Central Records Operations (S2EA) provides executive direction and leadership for the nationwide establishment and maintenance of basic records supporting Social Security programs. It manages centralized records operations and three geographically-dispersed data operations centers (DOC). The Office establishes and maintains applications for Social Security numbers, applications for employer identification numbers and application for hospital insurance identification cards. It receives and processes Social Security earnings reports from private and governmental employers and adjustments or corrections to posted earnings items. The Office conducts centralized SSI eligibility redetermination operations; maintains records of SSA enumeration and earnings records in hard copy, microfilm, magnetic tape and disc form and maintains an ongoing data exchange activity with the Treasury Department on the compilation and verification of individual earnings data.

E. The Office of Disability and International Operations (S2EC) provides executive direction and leadership to centralized disability and foreign claims operations. It directs the processing of claims under disability and Black Lung Benefits programs and maintains beneficiary rolls. It directs the review of initial and reconsidered determinations of disability excluded from State agency jurisdiction and directs the authorization of disability claims not authorized by DOs at the initial, reconsideration and other appeal levels. It directs the development, adjudication, authorization of payment or disallowance of claims for RSDI benefits filed by persons in foreign countries; determines eligibility for HI and supplementary medical insurance on related claims, determines entitlement to benefits based on international Social Security agreements. It determines whether and when eligibility or payments should be

terminated, suspended, continued, increased or reduced in amount; recovers or waives recovery of amounts incorrectly paid to beneficiaries. It serves as liaison on operational issues which affect the administration of the United States Social Security program abroad, with the Department of State, other Federal agencies, agencies of foreign governments and private organizations.

F. The Office of Systems Operations (S2EB) directs, manages and coordinates the planning, acquisition, implementation, security, operation and maintenance of SSA's computer and telecommunications systems operations. It directs and coordinates the development and/or transition, implementation and operation of current/ongoing operating systems support software. It manages several computer and telecommunications operations complexes which process SSA's programmatic support, administrative, management information, software development and statistical application systems. It directs and coordinates the activities associated with the planning, management, acquisition, procurement and renewal of ADP equipment, software and technical services to maintain operational systems. It manages the development of policies and standards for integration testing, validation and acceptance testing of telecommunications systems software.

Section S2EA.00 *The Office of Central Records Operations—(Mission):*

The Office of Central Records Operations provides executive direction and leadership for the nationwide establishment and maintenance of basic records supporting Social Security programs. It manages centralized records operations and three geographically-dispersed DOCs. The Office maintains applications for Social Security numbers, and applications for employer identification numbers. It receives and processes Social Security earnings reports from private and governmental employers and adjustments or corrections to posted earnings items. The Office conducts centralized SSI eligibility redetermination operations; maintains records of SSA enumeration and earnings records in hard copy, microfilm, magnetic tape and disc form and maintains an ongoing data exchange activity with the Treasury Department on the compilation and verification of individual earnings data.

Section S2EA.10 *The Office of Central Records Operations—(Organization):*

The Office of Central Records Operations (OCRO), under the leadership of the Director, OCRO, includes:

A. The Director, Office of Central Records Operations (S2EA).

B. The Immediate Office of the Director, Office of Central Records Operations (S2EA).

C. The Division of Certification and Coverage (S2EAG,H).

D. The Division of Earnings, Eligibility and Accountability (S2EAL).

E. The Division of Operations Support (S2EAM).

F. The Data Operations Centers (S2EAF6,8,9).

Section S2EA.20 *The Office of Central Records Operations—(Functions):*

A. The Director, OCRO (S2EA) is directly responsible to the Associate Deputy Commissioner, Central Processing, for carrying out OCRO's mission and managing its respective components.

B. The Immediate Office of the Director, OCRO (S2EA) provides internal operations and management analysis staff support and assistance to the Director and all OCRO components.

C. The Division of Certification and Coverage (S2EAG,H).

1. Makes determinations as to coverage under the Social Security Act, as amended, of services performed by employees or self-employed individuals in earnings disagreement cases if a claim for benefits has not been filed.

2. Reviews determinations on correctness of earnings data, coverage, increment years, total earnings, closing dates, primary insurance amounts and, in disability cases, determinations as to whether work requirements are met. Makes these determinations when needed.

3. Answers inquiries about earnings records, including earnings discrepancies; investigates and adjusts incorrectly reported earnings items and resolves discrepancies where SSA's records disagree with individual allegations of services rendered or remuneration received.

4. Certifies earnings record data to DOs and PSCs for use in the adjudication of RSI/DI cases.

5. Certifies earnings data from SSA to RRB, indicating eligibility under both systems, and makes preliminary findings of jurisdiction on handling claims.

6. Maintains files of microfilmed employer wage reports; self-employed income reports; detailed earnings listings and a file of earnings reported incorrectly or incompletely by employers or by self-employed individuals.

D. The Division of Earnings, Eligibility and Accountability (S2EAL).

1. Establishes records and maintains control of agreements with State and interstate entities and modifications of these agreements and reviews wage statements submitted for State and interstate entity employees.

2. Corresponds with employers and the Internal Revenue Service about the correction and processing of employer wage reports and self-employment income reports.

3. Performs clerical operations necessary for the audit and control of the annual updating of employer earnings reports and for correcting improperly reported earnings items.

E. The Division of Operations Support (S2EAM).

1. Provides programming, scheduling and operating support for the automated processing of operational, administrative, management and statistical computer programs for OCRO and other SSA components. Develops technical requirements for information reporting systems. Converts magnetic tape files to computer output microfilm. Maintains OCRO magnetic tape library.

2. Processes source documents, keying input through data entry systems for subsequent input and processing through computer systems in OCRO and the Office of Systems Operations (OSO).

3. Provides internal mail, central microfilm storage and retrieval services to OCRO.

4. Performs microphotographic services for SSA. Maintains master copies of basic systems and microfilm records to assure continuous operations should records be destroyed; reproduces, on film, records for current use and for preservation of a variety of employee and employer records.

F. The Data Operations Centers (S2EAF6.8,9) (located at appropriate geographical locations throughout the United States).

1. Receive, examine and microfilm annual and (where necessary) quarterly wage reports filed by employers.

2. Process source data through computer-controlled data entry and telecommunications systems for input to the central computer complex at SSA headquarters. Source data processed includes applications for Social Security numbers, employers' annual earnings reports, HI utilization records and other pertinent documents.

3. Perform electronic editing, validating and balancing functions related to the processing of source data and transmit products to SSA headquarters computer complex for processing in a timely manner.

4. Operate a large complex of data entry terminals, computers and communications equipment.

Section S2EC.00 *The Office of Disability and International Operations*—(Mission):

The Office of Disability and International Operations (ODIO) provides executive direction and leadership to centralized disability operations that process claims under disability and Black Lung Benefits programs and maintain beneficiary rolls. It directs the review of initial and reconsidered determinations of disability excluded from State agency jurisdiction, and directs the authorization of disability claims not authorized by Dos at the initial, reconsideration and other appeal levels. It responds to public and congressional correspondence on disability operations issues.

It directs the development, adjudication, authorization of payment or disallows claims for RSDI benefits filed by persons in foreign countries; determines eligibility for HI and SMI on related claims, determines entitlement to benefits based on international Social Security agreements. It determines whether and when eligibility or payments should be terminated, suspended, continued, increased or reduced in amount; recovers or waives recovery of amounts incorrectly paid to beneficiaries. It serves as liaison on operational issues which affect the administration of the United States Social Security program abroad, with the Department of State, other Federal agencies, agencies of foreign governments and private organizations.

Section S2EC.10 *The Office of Disability and International Operations*—(Organization):

The Office of Disability and International Operations, under the leadership of the Director, ODIO, includes:

A. The Director, Office of Disability and International Operations (S2EC).

B. The Deputy Director, Office of Disability and International Operations (S2EC).

C. The Immediate Office of the Director, Office of Disability and International Operations (S2EC).

1. The Operations Analysis Staff (S2EC-1).

D. The Office of Disability Operations (S2ECA).

E. The Office of International Operations (S2ECB).

F. The Office of Support Services (S2ECC).

Section S2EC.20 *The Office of Disability and International Operations*—(Functions):

A. The Director, ODIO (S2EC) is directly responsible to the Associate Deputy Commissioner, Central Processing, for carrying out ODIO's mission and managing its respective components.

B. The Deputy Director, ODIO (S2EC) assists the Director, ODIO in carrying out his/her responsibilities and performs other duties as the Director may prescribe.

C. The Immediate Office of the Director, ODIO (S2EC) provides internal operations analysis staff support and assistance to the Director and all ODIO components.

1. The Operations Analysis Staff (S2EC-1) Conducts operations analysis and provides support to the Directors of Disability Operations, International Operations and Support Services in the resolution of operational and procedural problems.

D. The Office of Disability Operations (S2ECA) plans, directs and coordinates activities related to the processing and maintenance of domestic disability claims for individuals under age 59, and for Black Lung and End Stage Renal Disease cases under the jurisdiction of the component. It directs activities related to continuing disability reviews of title XVI and concurrent title II/XVI claims under section 1619. It has responsibility for processing initial claims allowed at the administrative law judge and other appellate levels for disability claims under the jurisdiction of the component.

E. The Office of International Operations (S2ECB) serves as liaison with the Department of State, other Government agencies and SSA components on matters pertaining to the administration of the program abroad. It directs the Social Security representatives stationed overseas, appraises the role of foreign service posts in administering the Social Security program abroad and conducts special studies to evaluate the overseas program. Has responsibility for the operational implementation of totalization agreements. Negotiates operational accords and procedures with foreign Social Security agencies for the implementation of agreements. Develops requirements for totalization processing. OIO plans, directs and coordinates activities pertinent to development and processing of foreign claims. Directs the processing of postentitlement actions. Assures the proper application of tax liability to benefit payments abroad and is the focal point for debt management activities in the foreign sector. Directs the processing of sensitive and

controlled correspondence related to the program abroad. It directs the reconsideration of claims for benefits filed by persons overseas and the approval of fees for attorney and other representatives. It directs a variety of State agency type functions for disability claims filed abroad such as the development and adjudication of initial claims, continuing disability reviews and other disability benefits issues.

F. The Office of Support Services (OSS) (S2ECC) plans, directs and coordinates support activities for ODIO in a broad range of essential administrative areas including: personnel and organization management, labor and employee relations, budget and facilities management, managerial, technical and clerical training, integrity and security. It directs long-range systems planning and has responsibility for ADP hardware and software support activities for ODIO. OSS directs ODIO liaison between OSO and the Department of Treasury to ensure timely benefit payments. It ensures delivery, distribution and dispatch of mail for ODIO, and oversees ODIO's folder and record control operation.

Section S2EB.00 The Office of Systems Operations—(Mission):

The Office of Systems Operations (S2EB) directs, manages and coordinates the planning, implementation, operation and maintenance of SSA's computer and telecommunications systems operations. It directs and coordinates the transition, implementation and operation of current/ongoing operating systems software and other operating systems support software, including diagnostic software. OSO interfaces with OSI in the transition and implementation of redesigned programmatic, administrative and communications application systems to progressively replace existing application systems.

It manages several computer and telecommunications operations complexes, which process SSA's programmatic support, administrative management information, software development and statistical application systems. OSO conducts continuing assessments and engineering analyses of the computer and telecommunications operations, as well as equipment performance analyses and coordinates with OSI the implementation of necessary improvements to existing resources. It directs and coordinates the activities associated with the planning, management, acquisition and renewal of ADP equipment, software and technical services for SSA to maintain operational systems and to prevent progressive

deterioration. OSO develops, controls and implements operational plans, which include preparing technical specifications, evaluation criteria, acceptance test criteria, facilities engineering plans and budget estimates to maintain operational systems. It advises the Associate Deputy Commissioner, Central Processing and external monitoring authorities, such as HHS, the General Services Administration (GSA), the General Accounting Office (GAO), the Office of Management and Budget (OMB) and Congress on SSA's operational computer and telecommunications systems.

Section S2EB.10 The Office of Systems Operations—(Organization):

The Office of Systems Operations (S2EB), under the leadership of the Associate Commissioner for Systems Operations, includes:

A. The Associate Commissioner for Systems Operations (S2EB).

B. The Deputy Associate Commissioner for Systems Operations (S2EB).

C. The Immediate Office of the Associate Commissioner for Systems Operations (S2EB).

D. The Office of Computer Processing Operations (S2EBA).

E. The Office of Systems Support and Planning (S2EBB).

F. The Office of Network Management (S2EBC).

Section S2EB.20 The Office of Systems Operations—(Functions):

A. The Associate Commissioner for Systems Operations (S2EB) is directly responsible to the Associate Deputy Commissioner, Central Processing, for carrying out the OSO mission and providing general supervision to the major components of OSO.

B. The Deputy Associate Commissioner for Systems Operations (S2EB) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Systems Operations (S2EB) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Computer Processing Operations (OCPO) (S2EBA) plans, directs and manages data processing operations in support of social insurance and income maintenance programs, software testing, statistical and administrative information systems. It ensures that systems operational plans are consistent with overall OSO plans.

OCPO manages a complex data processing facility of computers and related equipment.

Processes programmatic and management information data in conjunction with OSI, OSR, and the Office of Information Management within the Deputy Commissioner for Management (DCM). It designs, develops, implements and provides operating control systems software and operational standards for SSA's programmatic and management information ADP equipment including data processing facility, data base and operations software support. OCPO conducts operational/technical evaluations of operations in the data processing facility and advises the Associate Commissioner for Systems Operations and other SSA officials on operational/technical matters concerning computer operations. OCPO serves as liaison with other SSA officials on technical matters concerning data processing facility operations. It serves as liaison with other SSA components, Federal and non-Federal agencies and other organizations on operational data processing matters. OCPO maintains operating systems software and develops operational standards for the data processing facility. It reviews and approves technical and operational systems priorities among program areas to ensure maximum use of OSO resources. OCPO coordinates the resolution of operational problems identified by OSR and the customers of OSO's computer systems.

It conducts integration testing, validation and acceptance of ADP hardware and applications software.

E. The Office of Systems Support and Planning (OSSP) (S2EBB) directs all OSO operational systems support planning and control activities.

It directs the development of broad OSO systems plans and determines planning requirements at various levels in OSO. The Office performs capacity management, monitors the usage of all computer and telecommunications resources to determine future requirements based upon future workload information. It directs the planning, design and implementation of software based security safeguards and controls to prevent unauthorized access, detect fraud or abuse and protect the confidentiality of personal or sensitive data. It participates in the development of policies and procedures for the acquisition of ADP computer and telecommunications equipment systems, software and services and maintenance

in compliance with SSA, HHS, OMB and GSA policies and regulations.

OSSP proposes resource requirements for systems activities in OSO to the Associate Commissioner for Systems Operations. It directs and coordinates the OSO activities associated with the operational planning, data processing facility security, quality assurance, management, utilization measurement, acquisition and renewal of operational ADP equipment, and software and technical services to maintain operational systems and prevent progressive deterioration.

OSSP is responsible for all technical support and training for microcomputer/workstation architecture and is the focal point for office automation within OSO. It is the central OSO point of contact for quality assurance and control activities. It serves as liaison with other SSA components, HHS and external monitoring authorities, including GSA, OMB, GAO and Congress on SSA ADP operations.

F. The Office of Network Management (ONM) (S2EBC) plans, directs and manages the continuous operations of SSA-designed telecommunications networks, both centrally and at remote sites, in support of social insurance and income maintenance programs, statistical, administrative, management information and network software testing. It ensures that network operational plans are consistent with overall OSO plans. ONM plans, directs and controls the integration, testing and, in conjunction with OSI and OSR, the production release of new or revised telecommunications hardware and network software. It develops policy and standards for integration testing, validation and acceptance of ADP telecommunications network software. It maintains network software and develops operational standards for data communications operations. ONM coordinates the resolution of operational problems identified by OSR and users of the telecommunications systems. It conducts the technical evaluations of telecommunications operations and facilities and advises the Associate Commissioner for Systems Operations and other SSA officials on all matters concerning data communications network operations. It serves as liaison with other SSA components, other Federal and non-Federal agencies and other organizations on operational data communications matters. ONM coordinates the resolution of telecommunications problems identified by OCPO, OSSP and users of OSO's data communication utility.

Subchapter S2G

Office of Systems Support

S2G.00 Mission

S2G.10 Organization

S2G.20 Functions

Section S2G.00 *Office of Systems Support*—(Mission): The Office of Systems Support is responsible for managing and directing SSA's Systems Support components. Provides executive leadership, direction, and oversight for requirements development, design, development, testing and validation for all programmatic software, software maintenance, comprehensive systems integration and strategic planning, comprehensive software configuration management and data base management, and software acquisition procedures, policies and activities.

Section S2G.10 *Office of Systems Support*—(Organization): The Office of Systems Support (OSS), under the leadership of the Associate Deputy Commissioner Systems Support, includes:

A. The Associate Deputy Commissioner, Systems Support (S2G).

B. The Assistant to the Associate Deputy Commissioner, Systems Support (S2G).

C. The Immediate Office of the Associate Deputy Commissioner, Systems Support (S2G) which includes:

1. The Systems Management Support Staff

D. The Office of Systems Integration (S2GA).

E. The Office of Systems Requirements (S2GB).

F. The Office of Strategic Planning and Integration (S2GC).

Section S2G.20 *Office of System Support*—(Function):

A. The Associate Deputy Commissioner, System Support (S2G) is directly responsible to the Deputy Commissioner, Operations, for carrying out OSS's mission and managing its respective components.

B. The Assistant to the Associate Deputy Commissioner, System Support (S2G) assists the Associate Deputy Commissioner in carrying out his/her responsibility and performs other duties as the Associate Deputy Commissioner may prescribe.

C. The Immediate Office of the Associate Deputy Commissioner, Systems Support (S2G) provides the Associate Deputy Commissioner and Assistant to the Associate Deputy Commissioner with staff assistance on the full range of his/her responsibilities. It includes:

1. The Systems Management Support Staff (S2G-1). Plans, coordinates and

provides overall management support to the Associate Deputy Commissioner, Systems Support, and all components within the Office of System Support.

D. The Office of Systems Integration (S2GA) directs the design and development and maintenance of all software to support SSA's social insurance and income maintenance programs. The Office of Systems Integration (OSI) directs SSA's data base integration activities to improve the administration of SSA's data bases and to implement modern data base management systems software. It designs and develops all new or improved data base-oriented systems. OSI directs a comprehensive software engineering program to modernize the Agency's programmatic applications software by developing new software and improving existing software engineering technologies. It develops and oversees the implementation of standards, methods and procedures for software design and development. It plans and directs a software development facility to support applications development personnel and supports the testing of new or redesigned software. OSI directs and coordinates a comprehensive configuration management program for SSA's programmatic software.

E. The Office of Systems Requirements (S2GB) directs, develops and coordinates operational and programmatic information requirements and functional specifications for new systems and modifications to existing systems in direct support of SSA programs. The Office directs validation of system processes against user-defined performance criteria to ensure conformance with requirements and approves the resulting system for operation acceptance. It directs the development of procedures and instructions to support user needs in effective implementation of all systems. It develops and implements standards for analysis and requirements definition and validation phases of the system development process. It develops control, auditability and security standards, and ensures their implementation through the systems development life cycle.

F. The Office of Strategic Planning and Integration (S2GC) directs and conducts SSA's comprehensive systems integration and strategic planning processes. It provides management leadership and direction to SSA systems activities in the areas of data administration, software engineering technology and systems engineering management, including configuration

management and quality assurance. It carries out a variety of technology assessment functions, including the development of pilot projects to evaluate specific technology applications in SSA systems support budget submissions and develops and maintains DCO-wide procurement, contract and resource monitoring and tracking systems. It develops security policy for the DCO systems community and coordinates technical training.

Section S2GA.00 Office of Systems Integration—(Mission):

OSI directs the design, development and maintenance of all software to support SSA's social insurance and income maintenance programs. It is responsible for a comprehensive software engineering program and oversees the implementation of standards, methods and procedures in connection with this program. OSI directs and coordinates a comprehensive software configuration management program and manages a detailed project control system for OSI software development projects. It directs SSA's data base administration management program and designs, develops and, with OSO, implements the production of all new or improved data base oriented systems.

It develops policies and procedures, prepares procurement documents for and oversees acquisition of software packages and tools and software support services. OSI plans and directs a software development facility to support applications development personnel. It serves as liaison with other SSA components, HHS and external monitoring authorities including DCM, GSA, GAO and Congress on SSA applications systems planning and software and data base development.

Section S2GA.10 Office of Systems Integration—(Organization):

The Office of Systems Integration, under the leadership of the Associate Commissioner for Systems Integration, includes:

A. The Associate Commissioner for Systems Integration (S2GA).

B. The Deputy Associate Commissioner for Systems Integration (S2GA).

C. The Immediate Office of the Associate Commissioner for Systems Integration (S2GA).

D. The Software Technology and Engineering Center Staff (S2GA1).

E. The Office of Software Improvement and Engineering (S2GA2).

F. The Office of Programmatic Systems (S2GA3).

Section S2GA.20 Office of Systems Integration—(Functions):

A. The Associate Commissioner for Systems Integration (S2GA) is directly responsible to the Associate Deputy Commissioner, Systems Support, for carrying out the OSI mission and providing general supervision to the major components of OSI.

B. The Deputy Associate Commissioner for Systems Integration (S2GA) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Systems Integration (S2GA) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Software Technology and Engineering Center Staff (STECS) (S2GA1) plans and directs the establishment and implementation of an SSA applications software development facility to provide an integrated set of automated tools and techniques in support of applications development personnel during all phases of the software development life cycle, including analysis, design, programming, testing, validation, production and maintenance. STECS directs a modern software development environment and provides ongoing technical support in the use of contemporary software engineering methodologies and techniques. It prepares requirement statements and statements of work for software packages and tools. STECS develops documents, prepares for publication and maintains the design and development sections of the Systems Engineering Technology Manual. It monitors compliance with established SSA and Federal standards and advises SSA management on issues affecting software development, tools and procedures and programmer productivity.

E. The Office of Software Improvement and Engineering (OSIE) (S2GA2) directs the design and development of all new or improved in-house file access software for data base/master record files, including selection and installation of commercial data base management packages in connection with systems modernization and design/development initiatives. It identifies, evaluates, selects and manages software improvement projects which are implemented internally by OSIE, are assigned to OSI operational support components or to private contractors. OSIE prepares draft requirements statements and statements of work for the acquisition of software

packages/tools and software contractor support services. It designs and develops new software systems/subsystems based on systems modernization plans or user requirements. It designs and develops all new or improved in-house applications support software designed to promote data base/master record data independence. It is responsible for all analyses in support of data standardization and data quality improvement/assurance in connection with software improvement and design and development initiatives. It establishes and maintains a data dictionary to support and control its function.

F. The Office of Programmatic Systems (OPS) (S2GA3) plans, directs and coordinates the development of operational ADP systems which directly support SSA's social insurance and income maintenance programs. Based on user requirements developed by OSR, it develops and modifies programmatic applications software systems, including systems analysis and design, programming, documentation, testing, implementation and maintenance. OPS coordinates systems development activities with OSR to assure full integration with OSI and SSA plans. It assures implementation of systems operating policies by developing detailed standards, methods and procedures consistent with OSI directives and standards. OPS serves as liaison with other OSI and SSA components, other governmental agencies and private organizations on operational systems development and maintenance functions.

Section S2GB.00 Office of Systems Requirements—(Mission):

The Office of Systems Requirements (OSR) directs, develops and coordinates organizational information requirements and functional requirements for new systems and modifications to existing systems in direct support of SSA programs, as well as statistical and administrative information systems. OSR is responsible for long-range planning and analyses to define new and improved systems processes in support of user requirements and maintains a comprehensive, updated and integrated set of system requirement specifications. OSR directs validation of systems operations against user-defined requirements and performance criteria, and approves the resulting system for operational acceptance. It directs the development of procedures and instructions to support user needs in effective implementation of all systems. OSR

develops security standards and ensures implementation of the standards within OSR. It directs the evaluation of the effect of proposed legislation, policies or regulations to determine the impact on SSA systems and develops information requirements and procedures as they relate to such legislation, regulations and SSA policy directives. It directs the coordination of user requirements with SSA central and regional operations to ensure the efficiency and effectiveness of program information needs and overall systems support. Based on input from users, OSR translates organizational information requirements and priorities into plans and, in line with OSI and OSO systems targets, develops SSA's annual Agency Systems Plan and directs development and maintenance of the plan. OSR serves as primary contact and advocate for the SSA user community on issues concerning the development of organizational information requirements, functional specifications and supporting operational procedures and instructions.

OSR provides system support for project management and control, resource management, ITS Budget/Agency System Plan coordination, Agency Strategic Plan and workload scheduling.

Section S2GB.10 Office of Systems Requirements—(Organization):

The Office of Systems Requirements, under the leadership of the Associate Commissioner for Systems Requirements, includes:

A. The Associate Commissioner for Systems Requirements (S2GB).

B. The Deputy Associate Commissioner for Systems Requirements (S2GB).

C. The Immediate Officer of the Associate Commissioner for Systems Requirements (S2GB).

D. The Office of Claims and Payment Requirements. (S2GB1).

E. The Office of Pre-Claims Requirements (S2GB2).

F. The Office of Systems Modernization Requirements (S2GB3).

G. The Office of Planning, Control and Validation (S2GB4).

Section S2GB.20 The Office of Systems Requirements—(Function):

A. The Associate Commissioner for Systems Requirements (S2GB) is directly responsible to the Associate Deputy Commissioner, Systems Support, for carrying out the OSR mission and providing general supervision to the major components of OSR.

B. The Deputy Associate Commissioner for Systems Requirements (S2GB) assists the Associate Commissioner in carrying out his/her responsibilities and performs

other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Systems Requirements (S2GB) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Claims and Payment Requirements (OCPR) (S2GB1) develops, evaluates and implements organizational information requirements for modifications to systems in direct support of SSA's multiple social insurance and income maintenance programs, as well as statistical and administration information systems, and provides data exchange services to Federal and State agencies. OCPR maintains a comprehensive and integrated set of systems requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility. OCPR develops procedures and instructions to support user needs in effective implementation of systems, evaluates proposed legislative and policy changes to determine the impact on SSA systems and develops information requirements and procedures needed to implement legislation, regulations and policy directives. In assigned areas, it coordinates development of user requirements with SSA headquarters and regional operations components, as well as Federal and State agencies, and represents users in resolving systems problems with the Office of Systems Integration and the Office of Systems Operations.

E. The Office of Pre-Claims Requirements (OPR) (S2GB2) develops, evaluates and implements organizational information requirements for modifications to system which establish, correct and maintain Social Security earnings records; issues new and duplicate Social Security cards and related records; furnishes Trust Fund information to the Department of the Treasury; accomplishes vested pension rights identification and notification, and provides a variety of data exchange and data information services that relate to enumeration and earnings records. OPR maintains a comprehensive and integrated set of system requirements specifications and conducts validation tests of system changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

It develops procedures and instructions to support user needs in effective implementation of systems, evaluates proposed legislative and policy changes to determine the impact on SSA systems and develops information requirements and procedures needed to implement legislation, regulations and policy directives. In assigned areas, OPR coordinates the development of user requirements with SSA headquarters and regional operations components, as well as Federal and State agencies and represents users in resolving systems' problems with OSI and OSO.

F. The Office of Systems Modernization Requirements (OSMR) (S2GB3) develops, evaluates and implements organizational information requirements for all systems modernization efforts for macro-level systems modernization proposals approved by the Associate Deputy Commissioner for Systems Support. OSMR maintains a comprehensive and integrated set of system requirements specifications, participates in the planning and conduct of unit validation tests with the Office of Planning Control and Validation (OPCV) of system modernization procedures and applications against user-defined requirements and performance criteria and certifies that the system meets specifications.

OSMR provides support to the Agency's data administration by performing information modeling analysis and provides support for transition to the modernized system. It maintains functional documentation of existing programmatic systems.

It develops procedures and instructions to support user needs for modernization projects in effective implementation of systems. In assigned areas, OSMR coordinates development of user requirements with SSA headquarters and regional operations components, as well as Federal and State agencies and represents users in resolving systems problems with the Office of Systems Integration and the Office of Systems Operations relating to modernization efforts.

G. The Office of Planning, Control and Validation (S2GB4) plans, analyzes, evaluates, coordinates and documents user requirements and changes in system processes to support long-term needs in relation to SSA's multiple social insurance and income maintenance programs and statistical and administrative information systems. OPCV develops security standards and ensures implementation of the standards within OSR. It develops validation

standards and requirements, conducts integrated tests of systems application processes. It develops automated techniques and methodologies for validation of systems processes and identifies requirements for automated validation tools and tests field data bases developed by OSI. OPCV develops and maintains the overall SSA plan for fulfilling immediate and long-range user requirements, including determining, classifying and defining SSA organizational systems needs and publishing the approved plan. It coordinates approved system requirement changes with systems modernization plans. OPCV develops and maintains a management support system which provides resource accounting, project control and workload scheduling and controls user initiated automated data processing budget items relating to the Agency systems plan.

Section S2GC.00 Office of Strategic Planning and Integration—(Mission):

The Office of Strategic Planning and Integration directs and conducts SSA's comprehensive systems integration and strategic planning processes. It provides management leadership and direction to SSA systems activities in the areas of data administration, software engineering technology and systems engineering management, including configuration management and quality assurance. It carries out a variety of technology assessment functions, including the development of pilot projects to evaluate specific technology applications in SSA. The Office develops the SSA ITS budget, prepares the SSA systems detailed budget submission and develops and maintains DCO-wide procurement, contract and resource monitoring and tracking systems. It develops security policy for the DCO systems community and coordinates technical training activities for systems components.

Section S2GC.10 Office of Strategic Planning and Integration—(Organization):

The Office of Strategic Planning and Integration (OSPI) under the leadership of the Director, OSPI includes:

A. The Director, OSPI

Section S2GC.20 Office of Strategic Planning and Integration—(Function):

The Director, OSPI, is directly responsible to the Associate Deputy Commissioner for Systems Support, for carrying out the OSPI mission and

providing general supervision to the major components of OSPI.

Dated: September 14, 1988.

Otis R. Bowen,

Secretary of Health and Human Services.

[FR Doc. 88-22334 Filed 9-28-88; 8:45 am]

BILLING CODE 4190-11-M

Centers for Disease Control

Population Base Used for Distribution of Preventive Health and Health Services Block Funds for Rape Prevention and Services

AGENCY: Center for Disease Control (CDC), Public Health Service, HHS.

ACTION: Notice of final determination to use annual Bureau of the Census population figures for calculation of the distribution of funds for victims of rape and rape prevention under the Preventive Health and Health Services Block Grant.

SUMMARY: Beginning in 1989, CDC will change the population base used to calculate the distribution of funds for victims of rape and rape prevention from the 1980 census to annual estimated population figures from the Bureau of the Census. The funds (\$3.5 million) are appropriated under the Preventive Health and Health Services Block Grant.

EFFECTIVE DATE: October 1, 1989 (Fiscal Year 1990).

FOR FURTHER INFORMATION CONTACT: E. Jerry Spyke, Senior Public Health Advisor, Center for Prevention Services, CDC, Atlanta, Georgia 30333. Telephone: FTS 236-1800, Commercial (404) 639-1800.

SUPPLEMENTARY INFORMATION:

Purpose and Background

A notice of request for comment on a proposal to update the population base used to calculate the distribution of funds for services to victims of rape and rape prevention was published in the *Federal Register* on Friday, July 22, 1988 (53 FR 27766). Comments were requested on or before August 22, 1988.

Corrections were published on Monday, August 8, 1988, (53 FR 29800). Minor typographical errors were corrected.

The authority for distribution of the funds is found in the U.S. Public Health Service Act, Title XIX, Part A, Sections 1901-02 (42 U.S.C. 300W and 300W-1).

Discussion and Comments

The funds are distributed to the 59 States, Territories, and the District of Columbia for their use in providing

services to rape victims and rape prevention. To insure all fund recipients were advised of the proposed population base change, the CDC mailed the *Federal Register* notice to the State Health Officer in each of the 59 jurisdictions. Overall, 26 written communications and one telephone call were received.

Comment: Of the 27 communications, 18 were received on behalf of the two States that would receive reduced allotments using annual estimated figures. The 18 commenters objected to the change and contended that the total population of a State is not necessarily a factor in the morbidity of rape cases. They suggested that many other determinants should be considered. Thus, they argue, a downward shift in population does not necessarily reflect reduced violent crimes such as rape.

Four commenters, all from States that would experience reductions, recognized the need for change and offered alternate methods of calculation. Proposals included a hold harmless clause whereby a State would never receive less than a previous year's allotment; use of actual decennial census data, thus providing stability for program management; use of population base for the entire block grant—not just rape, and use of other factors in the formula such as (1) Population densities, (2) age, (3) race, (4) sex, (5) socioeconomic data, (6) mores, and (7) alcohol/drug use.

Response: The Preventive Health and Health Services Block Grant statute provides no flexibility for the use of other criteria to determine the allotments to the States for services related to rape. Population is the only allocation determinant. CDC concurs with the commenters that other factors would probably more accurately reflect the severity and breadth of the rape problem.

Comment: One commenter advocated the change (from a State that would experience an increase) and the remainder of the commenters requested application information.

The CDC considered the thoughtful comments received, but finds it necessary to proceed with the change of the population base in order to respond to the population changes that have occurred. No factor other than population is permitted under current legislation. In the *Federal Register* of July 22, 1988, CDC proposed making this change effective October 1, 1988 (FY 1989). However, due to the close proximity of October 1, 1988, and the ensuing program adjustments that would

have to be made by the States, it has been decided to delay the implementation one year, until October 1, 1989 (FY 1990).

Dated: September 23, 1988.

Robert L. Foster,

Acting Director, Office of Program Support,
Centers for Disease Control.

[FR Doc. 88-22304 Filed 9-28-88; 8:45 am]

BILLING CODE 4160-18-M

Family Support Administration

Aid to Families with Dependent Children Program; Monthly Reporting

AGENCY: Office of Family Assistance (OFA), FSA, HHS.

ACTION: Request for comments by States on the requirements and procedures for documenting State requests to exempt certain subcategories of recipients from monthly reporting.

SUMMARY: This notice requests comments on the requirements and procedures for documenting State requests to exempt certain subcategories of recipients from monthly reporting as described in AT-85-13 and the report *How to Measure Costs and Benefits of Monthly Reporting for Categories of AFDC Recipients*.

DATE: Comments on the requirements and procedures provided for in this notice will be considered if received by October 31, 1988.

ADDRESS: Address written comments, in duplicate, to: Gary D. Ashcraft, Director, Division of Program Evaluation, Office of Family Assistance, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Gary D. Ashcraft, (202) 252-5034.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act (OBRA) of 1981 (Pub. L. 97-35) required States to implement monthly reporting for all recipients under the Aid to Families with Dependent Children (AFDC) program. In addition, OBRA gave the Secretary authority to approve State requests to exempt recipients from reporting monthly if the requests met certain cost-savings and eligibility-change conditions. Consistent with the statute, AT 81-31 described the guidelines for documenting these exemption or waiver requests. The AT also stated that waivers were limited in that under no circumstances would cases with earned income or cases with recent work history be exempted from reporting monthly.

The Deficit Reduction Act (DEFRA) of 1984 (Pub. L. 98-369) and interim final rules published September 10, 1984,

modified the monthly reporting requirements in 45 CFR 233.36. Under these provisions, the only two categories for which States must require monthly reports are assistance units with earned income and assistance units with recent work history. Assistance units which have earned income deemed to them from individuals living with them who have earned income or a recent work history are included among mandatory reporters. Other categories of recipients may be required to report at State option and must be listed in the State plan.

Also under the current law, prior approval from the Secretary is needed only to exempt subgroups of these two categories from monthly reporting. Approval of these waiver requests is based on evidence that not requiring these cases to file monthly reports is cost-effective. Prior to implementing an approved waiver, the State must list the reporting categories in a State plan amendment.

A State monthly reporting waiver request must be based on the principles of a sound cost-benefit methodology. To assist States in developing the most cost-effective waiver exemption plans, the Department funded a 9-month study to produce a systematic and comprehensive cost-benefit methodology for State use. While the study (*How To Measure Costs and Benefits of Monthly Reporting for Categories of AFDC Recipients*, Abt Associates, Inc., Cambridge, Massachusetts, June 1984) was designed to address the monthly reporting requirements of OBRA (several of the contractor's recommendations pertain exclusively to those requirements), the cost-benefit methodology is readily adapted to current legislation and rules by substituting the word "subcategory" for "category" in computing costs and benefits.

We decided that the contractor's methodology therefore must be adhered to in developing State waiver requests for subcategories of cases with earned income and cases with recent work history. A complete explanation of the required, optional and modified steps of the methodology are contained in chapters 4 and 5 of the contractor's report.

A summary of the methodology outlined in the contractor's report is as follows:

Determination of Benefits (The Dollar Value of Payment Changes Due to Monthly Reporting) for Each Subcategory

- Calculate the number of cases in the subcategory;

- Collect payment data for at least 2 consecutive months from a recent time period on a representative sample of cases in the subcategory;

- Identify and list all payment changes from 1 month to the next;

- Assign a duration value of 1 or more months to each of the payment changes on the list;

- Add the value of all grant decreases and case closures and subtract the value of grant increases, supplements and reopenings; and

- Divide this sum by the total number of case-months to derive an average savings for each case in the subcategory sample. This figure will serve as the denominator in the final benefit-cost ratio.

Determination of Administrative cost Components

- Add current per-case-month costs of postage, forms and envelopes, filing, data processing, staff and indirect costs;

- Deduct an appropriate per-case-month share of monthly reporting costs apportioned to food stamps; and

- Deduct per-case-month costs of monthly reports which are also used as redeterminations. This figure will serve as the numerator in the final benefit-cost ratio.

States have now had 4 years of experience with the DEFRA rules and the methodology of the AT as it applies to cases with earned income or a recent work history. We wish to know whether we should continue with this method or whether the process should be modified while maintaining the statutory intent to keep accurate track of cases with a high likelihood of change. We invite your comments as to whether the above methodology is easy or difficult to follow and ways we can improve it.

Paperwork Reduction Act

This notice does not create any reporting or record keeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 13.780 Assistance Payments Maintenance Assistance)

Dated: September 22, 1988.

Catherine Bertini,

Director, Office of Family Assistance.

[FR Doc. 88-22331 Filed 9-28-88; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration**[Docket No. 88N-0286]****Ray Batchelor Livestock; Applications for Animal Feeds Bearing or Containing a New Animal Drug; Opportunity for a Hearing****AGENCY:** Food and Drug Administration.**ACTION:** Notice.

SUMMARY: The Center for Veterinary Medicine (CVM), Food and Drug Administration (FDA), is proposing to withdraw approval of all applications held by Ray Batchelor Livestock for animal feeds bearing or containing new animal drugs. This action is being proposed because Ray Batchelor Livestock has refused to permit access to required records and because new information, evaluated together with the evidence before CVM when the applications were approved, shows that the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of the medicated feeds are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drugs therein, and were not made adequate within a reasonable time after receipt of written notice from FDA specifying the matters complained of.

DATES: A written appearance requesting a hearing by October 31, 1988; data and analysis on which the request for a hearing relies by November 28, 1988.

ADDRESS: Written appearance, data, information, and analysis to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Center for Veterinary Medicine (HFV-240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION: CVM is providing an opportunity for a hearing on a proposal to withdraw approval of all the applications held by Ray Batchelor Livestock, P.O. Box 306, Enfield, NC 27823, for the manufacture of animal feeds bearing or containing new animal drugs (medicated feed applications). Ray Batchelor Livestock is a mixer-feeder operation that holds five medicated feed applications approved under section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(m)) as follows:

1. F 110-725 for medicated feeds containing lincomycin for swine use; approved July 12, 1977.

2. F 110-785 for medicated feeds containing melengestrol acetate for cattle use; approved July 15, 1977.

3. F 111-150 for medicated feeds containing carbadox for swine use; approved September 2, 1977.

4. F 111-176 for medicated feeds containing carbadox and pyrantel tartrate for swine use; approved September 9, 1977.

5. G 128-373 for medicated feeds containing lincomycin for swine use; approved June 2, 1981.

To manufacture an animal feed bearing or containing a new animal drug, a firm must file with FDA and obtain its approval of a medicated feed application (Form FDA 1900). FDA does not approve such an application unless, among other things, the firm agrees to comply with the agency's current good manufacturing practice (CGMP) regulations for animal feeds (21 CFR Part 225), which are intended to help ensure that feed bearing or containing a new animal drug meets the requirements of the act as to identity, strength, quality, and purity. The agency determines whether the firm's manufacture of medicated feed is in compliance with the CGMP regulations by inspecting the facilities and controls used for, and the methods used in, the manufacture, processing, and packing of the feed by the firm.

The North Carolina Department of Agriculture (NCDA), under contract with FDA, inspected Ray Batchelor Livestock on May 21, 1981 (Ref. 1). The inspection showed that the feed mill was not operating in compliance with the CGMP regulations as follows:

1. There were no drug inventory records, as required by 21 CFR 225.42(b)(6).

2. No medicated feeds had been assayed during the prior 12 months, as required by 21 CFR 225.58(b)(1).

3. Labeling controls did not assure that medicated feeds were correctly labeled, as required by 21 CFR 225.80(b).

4. No master or batch records existed and production records were not maintained, as required by 21 CFR 225.102.

NCDA notified the firm of these findings by letter dated June 15, 1981 (Ref. 2). FDA sent the firm a notice of adverse findings (NAF), dated July 24, 1981 (Ref. 3), and requested a detailed response setting out the procedures being established to ensure that the firm would operate its facility in compliance with the law. FDA did not receive any response to its request.

On June 28, 1983, NCDA again inspected Ray Batchelor Livestock (Ref. 4). The inspection showed that the feed

mill was not operating in compliance with the CGMP regulations as follows:

1. There were no drug inventory records, as required by 21 CFR 225.42(b)(6).

2. No medicated feeds had been assayed in the prior 12 months, as required by 21 CFR 225.58(b)(1).

3. Labeling controls did not assure that medicated feeds were correctly labeled, as required by 21 CFR 225.80(b).

4. Production records were not maintained, as required by 21 CFR 225.102(b)(2).

5. Adequate evidence was not provided that medicated feed mixing equipment was cleaned or flushed, as required by 21 CFR 225.65(b).

NCDA notified the firm of these findings by letter dated July 29, 1983 (Ref. 5). FDA sent the firm an NAF, dated September 30, 1983 (Ref. 6), and requested a detailed response setting out the procedures being established to ensure that the firm would operate its facility in compliance with the law. The firm responded to FDA by letter dated October 10, 1983 (Ref. 7), stating that the feed mill would be in full compliance with the CGMP regulations by January 15, 1984. However, the letter did not provide any details of the procedures established in order to come into such compliance.

On June 10, 1987, FDA attempted to inspect Ray Batchelor Livestock but the firm refused to permit inspection (Ref. 8). CVM notified the firm by letter dated November 5, 1987 (Ref. 9), that it intended to issue a notice of opportunity for a hearing on a proposal to withdraw approval of each of the firm's Form FDA 1900's under section 512(m)(4)(B)(i) of the act and 21 CFR 514.115(c)(1) on the grounds that the firm refused to permit access to, or copying or verification of, records required by section 512(m)(5)(B) of the act and the CGMP regulations (21 CFR 225.102 through 21 CFR 225.115). The letter also referred to the May 21, 1981, and June 28, 1983, inspections, and cited section 512(m)(4)(B)(ii) of the act and 21 CFR 514.115(c)(2) as additional reasons for withdrawing the firm's Form FDA 1900's on the grounds that the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the drugs contained therein, and were not made adequate within a reasonable time after receipt of written notice from FDA specifying the matters complained of. CVM's November 5, 1987, letter requested that the firm voluntarily withdraw its Form FDA 1900's, and stated that if the firm did not respond,

CVM would proceed to publish the notice of opportunity for a hearing. CVM has not received a request for voluntary withdrawal.

Accordingly, CVM is proposing to withdraw approval of the Form FDA 1900's held by Ray Batchelor Livestock and identified above, under section 512(m)(4)(B)(i) and (ii) of the act.

CVM has carefully considered the potential environmental effects of this action and has concluded that it will not have a significant impact on the human environment and, therefore, that an environmental impact statement is not required. CVM's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment under 21 CFR 25.31b, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

References

Copies of the documents cited or referred to in this notice have been placed on display in the Dockets Management Branch. Except for data and information prohibited from public disclosure under section 301(j) of the act (21 U.S.C. 331(j)), § 20.61 of FDA's regulations governing public information (21 CFR 20.61), or 18 U.S.C. 1905, copies of the documents may be examined in the Dockets Management Branch by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. NCDA Inspection Report (inspection of May 21, 1981).
2. Letter dated June 15, 1981 (NCDA to Ray Batchelor Livestock).
3. NAF dated July 24, 1981 (FDA to Ray Batchelor Livestock).
4. NCDA Inspection Report (inspection of June 28, 1983).
5. Letter dated July 29, 1983 (NCDA to Ray Batchelor Livestock).
6. NAF dated September 30, 1983 (FDA to Ray Batchelor Livestock).
7. Letter dated October 10, 1983 (Ray Batchelor Livestock to FDA).
8. Memorandum dated June 15, 1987 (FDA Investigator Re: Ray Batchelor Livestock Inspection Refusal).
9. Letter dated November 5, 1987 (FDA to Ray Batchelor Livestock).

Therefore, notice is given to Ray Batchelor Livestock and to any other interested persons who may be adversely affected that CVM proposes to issue an order under section 512(m)(4)(B)(i) and (ii) of the act, withdrawing approval of F 110-725, F 110-785, F 111-150, F 111-176, and G 128-373, and all amendments and supplements thereto, on the grounds that the applicant has refused to permit access to required records, and that new information, evaluated together with the evidence available when the

applications were approved, shows that the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from FDA specifying the matters complained of.

In accordance with provisions of section 512 of the act (21 U.S.C. 360b) and regulations promulgated under it (21 CFR Part 514), and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84), CVM hereby provides an opportunity for a hearing to show why approval of the form FDA 1900's identified in this notice, and all amendments and supplements to those applications, should not be withdrawn under section 512(m)(4)(B)(i) and (ii) of the act. Any hearing would be subject to the provisions of 21 CFR Part 12.

If Ray Batchelor Livestock decides to seek a hearing, the firm shall file (1) on or before October 31, 1988, a written notice of appearance and request for a hearing, and (2) on or before November 28, 1988, the data and analysis relied on to justify a hearing, as specified in 21 CFR 514.200.

Procedures and requirements governing this notice of opportunity for a hearing, a notice of appearance and request for a hearing, submission of data and analysis to justify a hearing, other comments, and a grant or denial of a hearing, are contained in 21 CFR 514.200.

The failure of a sponsor to file a timely, written appearance and request for a hearing as required by 21 CFR 514.200 shall constitute a waiver of the right to a hearing, as shall the failure of the sponsor to submit any data or analysis in support of its hearing request. In either of those circumstances, CVM will summarily enter a final order withdrawing approval of the applications.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the documentation and analysis in the request for a hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the Form FDA 1900's, or that the request for a hearing is not made in the required format or with the required analysis, the commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and

conclusions, and denying a hearing. If a hearing is requested and is justified by the sponsor's response to this notice, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

All submissions under this notice shall be filed in four copies and, except as provided in 21 CFR 10.20(j), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84).

Dated: September 22, 1988.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 88-22279 Filed 9-28-88; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BERC-475-N]

Medicare Program; Establishment of Medicare Economic Index for 1989

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice updates the Medicare Economic Index (MEI) which is used to calculate the prevailing charge levels that help to determine reasonable charges for physician services under the Supplementary Medical Insurance program. For physician services furnished on or after January 1, 1989 and before January 1, 1990, the increase for primary care services will be 3.0 percent, and for other services it will be 1.0 percent.

EFFECTIVE DATE: This notice applies to services furnished on or after January 1, 1989.

FOR FURTHER INFORMATION CONTACT: Paul Riesel, (301) 966-4494.

SUPPLEMENTARY INFORMATION: Payment under the Supplementary Medical Insurance program (Part B of Medicare) for a physician's service is based on a reasonable charge which, under section 1842(b) of the Social Security Act (the Act), may not exceed the lowest of: (1) The physician's actual charge for the service, (2) his or her customary charge for that service, (3) the prevailing charge of physicians for similar services in the locality adjusted for the Medicare Economic Index (MEI), or (4) a special

reasonable charge limit that applies if the Health Care Financing Administration (HCFA) determines that applying the above criteria to a particular service or category of services would result in grossly excessive charges. (When the use of the customary and prevailing charges results in a payment that is grossly deficient, a higher reasonable charge may be recognized.) The prevailing charge for a service, before adjustment for the MEI, is calculated at the 75th percentile of physicians' customary charges for a similar service in the same locality. In computing prevailing charges, the carrier uses the customary charges of physicians in the locality weighted by frequency.

The basic methodology for the calculation of the MEI is set forth in 42 CFR 405.504(a)(3)(i), and can be reviewed in detail in our September 30, 1985 notice (50 FR 39941). However, the MEI increase for fee screen year (FSY) 1987 (that is the 12-month period beginning January 1, 1987) was set at 3.2 percent by section 9331(c)(1) of Pub. L. 99-509, the Omnibus Budget Reconciliation Act of 1986.

The MEI increase for FSY 1988, that is, the 12-month period beginning January 1, 1988, was announced in the October 14, 1987 **Federal Register** as 3.6 percent (52 FR 38145). However, due to the enactment on December 22, 1987 of Pub. L. 100-203, the Omnibus Budget Reconciliation Act of 1987, that increase did not go into effect on January 1, 1988. Instead, section 4041(a) of Pub. L. 100-203 enacted a new section 1842(b)(4)(A)(v) of the Act to provide that there would be no increase in the prevailing charge limits for the first three months of 1988. Section 4042(a) of Pub. L. 100-203 enacted a new section 1842(b)(4)(F)(ii) of the Act to provide that beginning April 1, 1988, the MEI for the remainder of FSY 1988 would be increased in the following way:

- For primary care services, 3.6 percent.
- For other physicians' services, 1.0 percent.

These increases were effective on April 1, 1988.

Section 4042(a) of Pub. L. 100-203 also enacted a new section 1842(b)(4)(F)(iii) of the act to establish the following increases in the MEI for FSY 1989:

- For primary care services, 3.0 percent.
- For other physicians' services, 1.0 percent.

These increases will become effective for the 12-month period beginning January 1, 1989.

Section 4042(b) of Pub. L. 100-203 enacted a new section 1842(b)(4)(E)(iii)

of the Act to define primary care services as physicians' services which constitute office medical services, emergency department services, home medical services, skilled nursing, intermediate care and long-term care medical services, or nursing home, boarding home, domiciliary or custodial care medical services.

In addition, prior to the enactment of Pub. L. 100-203, section 1842(b)(4)(A)(iv) of the Act provided that for payment purposes, the prevailing charge for physician services furnished on or after January 1, 1987 by a nonparticipating physician would be 96 percent of the computed MEI adjusted prevailing charge. As amended by section 4042(c)(2) of Pub. L. 100-203, this differential remains 96 percent for services furnished on or after January 1, 1987 and before April 1, 1988; changes to 95.5 percent for services furnished on or after April 1, 1988 and before January 1, 1989; and will be 95 percent for services furnished on or after January 1, 1989.

Regulatory Impact Statement

This notice merely announces the MEI changes prescribed by section 1852(b)(4) of the Act, as amended by section 4042 of Pub. L. 100-203. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulations. Therefore, we have determined, and the Secretary certifies, that no analyses are required under Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601 through 612) or section 1102(b) of the Act.

Paperwork Reduction Act

The changes in this notice do not impose information collection requirements. Consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3591 *et seq.*).

Public Comment Period

We are not publishing this notice for public comment prior to its taking effect since it merely announces the rate of change in the MEI required by legislation. As noted above, the basic methodology for the calculation of the figures has not changed. Thus, we find it unnecessary to publish this document in proposed form with a prior comment period.

(Sec. 1842(b) of the Social Security Act; 42 U.S.C. 1395u(b))

(Catalog of Federal Domestic Assistance, Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: August 18, 1988.

William L. Roper,
Administrator, Health Care Financing
Administration.
[FR Doc. 88-22332 Filed 9-28-88; 8:45 am]
BILLING CODE 4120-01-M

[BERC-457-FNC]

Medicare Program; Exclusion of Certain Food Allergy Tests and Treatments From Medicare Coverage

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice with comment period.

SUMMARY: This final notice announces that sublingual, intracutaneous and subcutaneous provocative and neutralization testing and neutralization therapy for food allergies are excluded from Medicare coverage. Available evidence does not show that these tests and therapies are effective.

DATES: *Effective Date:* This notice is effective for services furnished on or after October 31, 1988.

Comment Period: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on November 28, 1988.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration,
Department of Health and Human
Services, Attention: BERC-457-FNC,
P.O. Box 26676, Baltimore, Maryland
21207.

If you prefer, you may deliver your comments to one of the following addresses:
Room 309-G, Hubert H. Humphrey
Building, 200 Independence Ave., SW.,
Washington, DC.

or

Room 132, East High Rise Building, 6325
Security Boulevard, Baltimore,
Maryland.

In commenting, please refer to file code BERC-457-FNC. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT:
Sam Della Vecchia, (301) 966-5316.

SUPPLEMENTARY INFORMATION:

I. Background

Administration of the Medicare program is governed by the Medicare statute, title XVIII of the Social Security Act (the Act). The Medicare law provides coverage for broad categories of benefits, including inpatient and outpatient hospital care, skilled nursing facility (SNF) care, home health care, and physicians' services. It places general and categorical limitations on the coverage of the services furnished by certain health care practitioners, such as dentists, chiropractors, and podiatrists, and it specifically excludes some categories of services from coverage, such as cosmetic surgery, personal comfort items, custodial care, routine physical checkups, and procedures that are not reasonable and necessary for the diagnosis or treatment of an illness or injury. The statute also provides direction as to the manner in which payment is made for Medicare services, the rules governing eligibility for services, and the safety and quality standards to be met by institutions providing services to Medicare beneficiaries.

The Medicare law does not, however, provide an all-inclusive list of specific items, services, treatment procedures, or technologies covered by Medicare. Thus, except for the examples of durable medical equipment in section 1861(n) of the Act, and some of the medical and other health services listed in sections 1861(s) and 1862(a) of the Act, the statute does not specify medical devices, surgical procedures, or diagnostic or therapeutic services that should be covered or excluded from coverage.

The intention of Congress, at the time the Medicare Act was passed in 1965, was that Medicare would provide health care insurance to protect the elderly or disabled from the substantial costs of acute health care services, principally hospital care. The provision was designed generally to cover services ordinarily furnished by hospitals, SNFs, and physicians licensed to practice medicine. Congress understood that questions as to coverage of specific services would invariably arise and would require a specific determination of coverage by those administering the program. Thus, it vested in the Secretary the authority to make those determinations. Specifically, section 1862(a)(1)(A) of the Act prohibits payment for any expenses incurred for services "which * * * are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member."

We have interpreted this statutory provision to exclude from Medicare coverage those medical and health care services that are not demonstrated to be safe and effective by acceptable clinical evidence. We made a preliminary judgment with respect to certain food allergy testing and treatment procedures in 1983, and on August 19, 1983, we published a proposed notice (48 FR 37716) that announced our intention to exclude them from Medicare coverage. The procedures proposed for exclusion were the cytotoxic leukocyte test, sublingual, intracutaneous, and subcutaneous provocative and neutralization testing and neutralization therapy. In formulating the proposed coverage exclusions, we relied substantially on detailed evaluations and recommendations provided us by our consultants in the Public Health Service's National Center for Health Care Technology (PHS/NCHCT), which concluded that those tests and therapies should be considered experimental in the absence of scientific evidence of their effectiveness. (Under a subsequent reorganization, one NCHCT function was transferred to the Office of Health Technology Assessment (OHTA). The process HCFA uses in making coverage decisions, including the role of OHTA, is described in a notice that was published in the *Federal Register* on April 29, 1987 (52 FR 15560).)

In response to the proposed notice of August 19, 1983 on the exclusion of certain food allergy testing and treatment procedures, we received over 19,000 comments from members of the general public, medical laboratories, medical societies and other professional organizations, and members of Congress. Almost all of the comments concerned whether Medicare should cover food allergy testing and treatment procedures and/or the effect of this coverage policy on other third party payers. (The responses to these comments were addressed in a notice that was published on July 5, 1985 (50 FR 27691).) We referred the medical and scientific materials that we received on food allergy testing in response to the August 19, 1983 notice to OHTA for review and analysis on December 5, 1983. OHTA responded on January 11, 1984 that the additional submissions did not change the substance, conclusions, or in any way add new information which, if originally considered by NCHCT, would have resulted in a different coverage recommendation. The scientific studies and materials reviewed by OHTA are described in Appendix A of this notice.

We published a notice of ruling on July 5, 1985 (50 FR 27691) that excluded only cytotoxic leukocyte testing for food allergies from Medicare coverage. At that same time, we announced that we were still evaluating information concerning sublingual, intracutaneous, and subcutaneous provocative and neutralization tests, and neutralization therapy for food allergies.

On February 12, 1986, we requested that OHTA once again review specific articles on sublingual, intracutaneous, and subcutaneous provocative and neutralization tests and neutralization therapy for food allergies provided to us by proponents and determine whether they would suggest the need for reexamining the original NCHCT recommendations to not cover these food allergy tests and therapies because they lacked scientific evidence of effectiveness. On March 4, 1986, OHTA reiterated its response of January 11, 1984 about the procedures in question and added that these diagnostic and therapeutic modalities for food allergy are considered to be of unproven efficacy. We accepted the information provided by OHTA in their March 4, 1986 review, on the basis of the information and reasoning that appears in Appendix B of this notice. We requested on April 17, 1986 that OHTA review materials that we received subsequent to OHTA's recommendation of March 4, 1986. On June 9, 1986, OHTA informed us that the additional materials did not change the substance, conclusions, nor in any way add new information that might result in a changed coverage recommendation. Appendix C of this notice contains a description of the material reviewed by OHTA in reaching this decision.

The American Medical Association's Council on Scientific Affairs issued a report in December 1986 titled "Informational Report on In Vivo Diagnostic Testing and Immunotherapy for Allergy" that reflected the views of scientific literature as of that date. In discussing intracutaneous and subcutaneous provocative tests and neutralization procedures and sublingual provocative testing and neutralization procedures for the diagnosis and treatment of food allergies, the report stated that many investigators had attempted to accomplish controlled trials of these procedures, but none of these had produced evidence of effectiveness. In the part, major difficulties have been the reproducibility of results, nonstandardized allergenic extracts, nonhomogenous patient populations,

and varying methods of quantifying outcomes.

Moreover, at its May 1987 meeting, the Medical Advisory Panel of the Blue Cross/Blue Shield Association stated that sublingual, intradermal (that is, intracutaneous), and subcutaneous provocative and neutralization immunotherapies are experimental and investigative in the management of food allergy.

II. Provisions of this Final Notice

For the reasons stated in the Background section of this notice, we will exclude from Medicare coverage sublingual, intracutaneous, and subcutaneous provocative and neutralization testing and neutralization therapy for food allergies.

We will issue instructions to HCFA fiscal intermediaries and carriers responsible for administering the Medicare program through the Coverage Issues Manual (HCFA Pub. 6).

III. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a final regulatory impact analysis for any final notice that meets one of the E.O. criteria for a "major rule"; that is, that will likely result in: An annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a final regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a final notice such as this will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all beneficiaries and providers as small entities.

In the past, HCFA has allowed fiscal intermediaries and carriers the discretion to make coverage determinations regarding sublingual, intracutaneous, and subcutaneous provocative and neutralization testing and neutralization therapy for food allergies based on case circumstances and their knowledge of local practice patterns. We believe that publication of this notice will establish a more uniform Medicare coverage policy with respect to these services. While some

beneficiaries may incur out-of-pocket expenses if they wish to receive these services in the future, available evidence does not indicate that these tests and therapies are effective. Therefore, we have determined that payment for these services is precluded under section 1862(a)(1) of the Act.

Some providers who routinely perform these tests and therapies will be affected to a degree by this notice; however, since relatively few Medicare beneficiaries receive these services, we do not believe that the number of providers significantly affected will be substantial. Accordingly, we believe that the impact of this notice both on Medicare program expenditures and on providers of services will be minimal.

Many commenters in the past have expressed concern that private insurance companies might follow Medicare's lead and also exclude food allergy testing and treatments from coverage. While private health insurers sometimes adopt policies similar to those of Medicare, Medicare coverage policies are applicable only to the Medicare program and have no statutory or regulatory relationship to private insurers and other third party payers. Each private insurer determines whether or not these services are reimbursable based on its own coverage guidelines.

We are making this coverage decision on the basis of widely available medical evidence, as well as our statutory authority and policy precedents. This same medical evidence may be weighed differently by other insurers in light of their own guidelines. Thus, it would be speculative to attribute noncoverage of these services by any other insurer to this notice.

For these reasons, we have determined that a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that this final notice will not have a significant economic impact on a substantial number of small entities, and therefore we have not prepared a regulatory flexibility analysis.

IV. Response to Comments

We are affording the public an opportunity to comment on this notice so that they may respond to our evaluation of the information we reviewed subsequent to the August 19, 1983 notice (48 FR 37716). Because of the large number of comments we receive on notices such as this, we cannot acknowledge or respond to them individually. However, if we decide to publish a subsequent document in the *Federal Register*, we will consider all

comments received timely and respond to the major issues in that document.

V. Collection of Information Requirements

This notice contains no information collection requirements. Consequently, this notice need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

(Sec. 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance and No. 13.774, Supplementary Medical Insurance)

Dated: February 26, 1988.

William L. Roper,
Administrator, Health Care Financing
Administration.

APPROVED: August 17, 1988.

Otis R. Bowen,
Secretary.

Appendix A

In response to the August 9, 1983 *Federal Register* notice proposing exclusion of certain food allergy testing and treatment techniques from Medicare coverage, scientific materials were submitted to HCFA by interested parties and sent to OHTA for evaluation. The literature on food allergy procedures submitted for review by OHTA pertained to sublingual provocative and neutralization testing and therapy, and intracutaneous and subcutaneous provocative and neutralization testing and neutralization therapy.

Provocation and neutralization testing and neutralization therapy for food allergies involve administration of dilute solutions of suspected food allergens by the intracutaneous, subcutaneous, or sublingual route to provoke allergic signs or symptoms in a patient for the purpose of diagnosing food allergy. When symptoms have been provoked, neutralization is attempted with administration of a weak dilution of the same antigen using the same routes of administration. Dilution is varied until a "neutralization dose" of antigen is ascertained that will provide relief of the symptoms. Neutralization treatment of food allergies involves administration of this neutralizing dose when identified allergenic foods are to be consumed. Varying recommendations exist concerning frequency and route of administration. Intradermal skin wheal reactions have also been employed to assist in determining the neutralizing dose of food antigens.

There has been considerable attention to the definition of "food allergy" over many years of both scientific and popular literature. A recent editorial in the *Lancet* (1) deals with the longstanding tendency to represent all food reactions, immunologically mediated or not, as "allergies". Traditionally, short-term reactions to foods due to IgE mediated allergy have typically included urticaria and angioedema, conjunctivitis, rhinitis, asthma, and some gastrointestinal effects. The *Lancet* goes on to suggest that nonimmunological food reactions are better referred to as "food intolerance." These effects may variously be chemical, humoral, or due to enzymatic deficiency. Unfortunately, there is little consensus concerning the identity and attribution to immunologic mechanisms of purported non-IgE mediated food reactions such as mental disorientation, anxiety, fatigue, hyperkinesia, and musculoskeletal pain. This, in turn, has fueled additional controversy concerning the place of food allergen immuno-therapy in the treatment of these conditions.

Further debate has surrounded the evaluation of methods for diagnosing food allergy. Recent work by Bernstein (2) and Sampson (3) has dealt with the low correlation between Double Blind Food Challenge (DBFC), skin testing, Leukocyte Histamine Release (LHR), and the Radioallergen sorbent Test (RAST) for allergic antibody. Traditionally, the DBFC has been most widely accepted (4). Because of the continuing dispute over the basic mechanisms and manifestations of food allergy, any consensus concerning diagnostic methods has been elusive.

Predictably, agreement upon effective treatment modalities for adverse food reactions remains highly controversial as a consequence of the etiological and diagnostic disputes noted.

Assessments by NCHCT of the three food allergy procedures of concern were completed and released in 1981 with recommendations of noncoverage. The American Academy of Allergy concurrently published a position statement endorsed by its Executive Committee and Committee on Unproved Technologies suggesting the three procedures "be reserved for experimental use (5)." A further review of "Controversial Practices in Allergy" performed by Grieco as a special communication to the *Journal of the American Medical Association* (6) synthesizes the literature on the three procedures concluding that there is a lack of adequate objective evidence to support their routine clinical use.

Rebuttal letters to Grieco's review of provocation and neutralization from Miller (7) and Podell (8) were carried in subsequent issues of the *JAMA* and critiqued in turn by Grieco who found no reason to change his opinion based on the studies they cited. Leukocytotoxicity assay was not supported by Podell and Miller. An editorial recently carried in the *Western Journal of Medicine* (9) found that "controlled studies do not substantiate the claims of proponents" of cytotoxic testing for food allergy.

An exhaustive review of the rational, efficacy, and safety of provocative testing and neutralization therapy has been accomplished by Levin, Miller, and Weinstein (10). They clearly state the basic principle of provocation/neutralization—"For most patients, a specific symptom-relieving therapeutic concentration for each antigen extract exists and can be determined individually by skin testing." Multiple allergy can be tested by combining appropriate relieving doses of all offending allergens in a single vial to be administered together. Sublingual and intradermal routes are said to be equally safe and effective. Past literature is referenced in supporting the use of provocation/neutralization for allergy mediated by IgE mechanisms as well as immune reactions mediated by other factors. The diverse list they present of illnesses that respond to this therapy includes: "aphthous stomatitis; chronic diarrhea; chronic ulcerative colitis; atopic dermatitis; chronic urticaria; hyperkinesia; migraine; and some resistant respiratory inhalant syndromes including perennial allergic rhinitis, asthma, and recurrent laryngeal edema." Mention is also made of the utility of these techniques for various syndromes and infectious diseases such as resistant vaginal candidiasis, dysmenorrhea, and active viral infections as well as certain autoimmune diseases such as lupus erythematosus. Sensitivity to allergens of foods, pets, toxic chemicals and inhalants mediated by both IgE and non-IgE factors is implicated.

Levin, et al. (10), emphasize there recent reports of double-blind clinical trials that support the efficacy of provocation/neutralization: The neutralization therapy of asthma due to animal dander by Boris (11), and two unpublished studies by Rea (12) and McGovern (13) respectively. The work by Rea is to appear in the March 1984, issue of *Archives of Otolaryngology*; the McGovern work has been submitted to the same journal with review still underway at this time. The Boris study

deals with inhalant induced asthma and will not be mentioned further.

Rea (12) studies 22 patients selected from 150 consecutive admissions to the Environmental Care Unit, Lutheran Brookhaven Medical Systems Hospital for evaluation of suspected food sensitivities. To be included, a patient must have exhibited "asthma, urticaria, muscle, nerve or joint pain, headache, dizziness, or mental confusion" within an hour of oral food challenge (OFC) among other selected criteria. Positive oral challenges were successfully neutralized by intracutaneous antigen administration technique in 54 of the 150 patients; 22 consented to participate in the study. OFC of each patient was repeated on three subsequent occasions after double blind subcutaneous administration of either a neutralizing dose of antigen or a saline placebo. Observation of signs and symptoms as well as indices of cognition and discomfort were recorded for each test episode. The identified symptom categories that were provoked and neutralized included "muscle and joint pain, headache, gastrointestinal discomfort and mental symptoms." The detailed record of discrete signs and symptoms manifested before and after each OFC includes a much wider range of reactions present or absent in varying degree among the 22 subjects tested. Consistency between symptoms evoked on initial OFC upon admission to the study and those evoked with each subsequent OFC is also of concern. Based on favorable results produced by the subcutaneous administration of a neutralizing dose of food antigens, Rea concludes that neutralization is a valid biological phenomenon. No conclusions are drawn with respect to the immunologic effects of repeated neutralization dose injections or duration of effect. This study presents interpretive difficulties due to intraindividual variations in signs and symptoms produced and neutralized on initial and subsequent testing. There is also considerable interindividual variation among the patients especially with respect to chief complaints upon admission, and consequently, underlying clinical status. Spacing between individual patient test episodes varied from two to four days. The effect of this variation on the statistical independences of each such event is not stated.

McGovern, in the study cited by Levin (13), evaluates the diagnostic utility and therapeutic value of the provocative challenge and neutralizing dose phenomenon. The research was carried out in two phases: first the

reproducibility of intradermal provocative tests and placebo effects, then the double-blind evaluation of neutralizing dose therapy after provocative challenge and laboratory observation of immune response. The first phase involved selection of six patients demonstrating positive systemic reactions to various allergenic extract dilutions administered intracutaneously.

Three were thus tested with perennial rye grass, one with "corn", one with petroleum-derived ethanol, and two with phenol. Symptoms that were provoked ranged from hyperkinesia to somnolence, cognitive disruption and cephalalgia, conjunctivitis, rhinorrhea and coryza. A double-blind testing procedure was then accomplished whereby each of the six subjects were tested with randomly administered intradermal challenges of antigen or a saline placebo and their responses recorded and compared. Three of the subjects and three matched normal controls were retested one week later and laboratory immunologic testing performed to evaluate the effect of provocative challenge. The second phase of their study involved 10 patients known to be clinically sensitive to various foods and chemicals based on "demonstrated neurologic reactions after provocative testing" one year before. Seven different substances were employed with no more than one being administered to each patient. A varying schedule of provoking and placebo injections was employed on the patients and 10 sex matched normal controls who were evaluated clinically after each intervention. Clinical improvement was identified among the experimental group upon administration of a neutralizing dose of specified allergen or hapten. Variations of cellular and humoral response were also identified after provocative challenge. Although McGovern claims statistically significant results supporting the efficacy of provocative/neutralization testing and neutralization therapy, the small number of patients and large number of variables involved make interpretation of his data quite difficult.

Levin (10) additionally cites a study by King (14) that tests the efficacy of sublingual provocation in producing cognitive and emotional symptoms as well as somatic effects by allergic mechanisms. Ten patients, each with at least one psychological presenting symptom, were involved. No control group was used. Food substances were randomly tried on each subject with interspersed placebo trials. Double-blind precautions were taken and subjects

listed and rated their reactions. Neutralization was not a feature of this study. King finds significantly greater cognitive-emotional symptoms following sublingual administration of specific allergens than on placebo trials. Again, this study deals with a markedly heterogeneous population of patients sensitive to an extremely varied number of substances. The author's stated conclusions are difficult to interpret. It is noted that Levin mistakenly dates this work by King in 1982; it was actually published in early 1981 and has been critiqued in the literature (8).

The additional clinical trials of provocation/neutralization that Levin cites either do not concern food allergy or are not of double-blind design. Some, published before 1982, were already considered by the Public Health Service and have been acknowledged in the scientific literature.

An extensive review of immunological principle and theory is conducted by Levin (10) concerning the biochemical nature of IgE and non-IgE mediated food sensitivity. Because of the theoretical nature of this discussion and the spirited debate that currently surrounds the data cited, the Public Health Service will await the results of further well-designed biomedical research before attempting to comment on the immunological processes and reactions that have been postulated.

In the section of his comprehensive work entitled "Critique of the Opponents Case Against Provocation/Neutralization," Levin (10) notes the absence of bibliographic reference to a number of supportive studies. It is felt that the works cited are already well acknowledged in the scientific literature with their contributions adequately incorporated into the commentaries of both proponents and opponents. Levin (15) regrets the release of NCHCT assessments recommending experimental status for both sublingual and intradermal/subcutaneous provocation/neutralization testing and neutralization therapy "before 3 of the strongest double-blind studies in support of provocation/neutralization had been published. Yet no attempt has been made to incorporate the new data into HCFA's rulemaking." The three studies, Boris (11), Rea (12), and McGovern (13), as has been noted, variously have not yet been published or do not involve food allergy (11).

In an appendix to Levin's commentary, D.S. King prepared a "Critical Analysis of the Controlled Research" on intradermal/sublingual provocative testing (16) that is of interest from several points of view.

Neutralization is specifically excluded from consideration with respect to diagnostic and therapeutic effect. Further, he states that "Practitioners of sublingual testing have not conducted well-controlled evaluation of its reliability and validity, relying instead on anecdotal reports and clinical impressions (17)." An extensive review of the principal studies critical of intradermal provocation is performed by King and their research design is questioned on grounds of reliability and validity. Studies favorable to intradermal provocation are in large part not analyzed.

Dr. Richard N. Podell composed an extensive letter to HCFA reviewing the scientific literature concerning provocation/neutralization methods for diagnosing and treating food allergies (18). He cites certain studies completed since the 1981 issuance of the NCHCT report as supportive of provocation/neutralization and requests their consideration. Podell states that "The following studies were not discussed in the NCHCT report. By inference they were not considered by those proposing the rule to exclude these procedures from coverage (19). He then presents the research of Boris (11), Rea (12), and McGovern (13) as "the most rigorous evaluations of neutralization (19)" from an experimental design perspective. As noted above, one of these works deal with inhalant (not food) allergy, and the other two have not yet been published. The work of D.S. King (14) is also cited although, as noted, neutralization is not covered and emphasis was on causation of psychological symptoms by food allergens. Surprisingly, in the unpublished draft of a 1983 article, also submitted to HCFA (20), Podell expresses disappointment at the quality of both the favorable and unfavorable provocation/neutralization literature citing design flaws and lack of full scientific formality in the reporting of results. He concludes by affirming the justification for "the effort to design and implement further, and more definitive double blind evaluations (21)."

The American Academy of Otolaryngic Allergy also submitted its comments to HCFA in response to the proposed Medicare coverage exclusion of intracutaneous and subcutaneous provocative food allergy testing, and neutralization therapy following these procedures (22). Sublingual techniques and the leukocytotoxic test are not included in their request for favorable coverage action. A comprehensive review of provocative/neutralization technology is accomplished with emphasis on both prevailing practices

and debate among allergists, as well as a detailed presentation of underlying immunologic theory. The Academy calls particular attention to the work of Miller, in 1977 (23), which is said to be "the most scientific and accurate study considered" in the NCHCT Assessment Report. We are referred to the comments of Podell with respect to Miller, (20). However, Podell raises the issue of possible lapses in double-blinding and the subjective nature of symptom reporting in Miller's work. He concludes that "the Miller study leaves the reader with residual uncertainty (24)." Since only 8 patients were involved, the findings of Miller's "preliminary report" continue to be debated (7). A more traditional approach to food allergy that was counter to Miller's hypotheses was presented by May and Block in 1978 (25). A recent unpublished study by Johnson and Rea (26) is cited by the Academy as clinical of the correlation between provocative skin testing and oral food challenges. A lack of confirmatory correlation with radioallergen sorbent test (RAST) results is believed to indicate non-IgE mediated allergy. This study, however, has neither double-blinding nor a control group. Further, reference to the new works by Boris (11), Rea (12), and McGovern (13) is made by the Academy of Otolaryngic Allergy as illustrative of modern provocation/neutralization techniques.

The scientific basis of provocative/neutralization testing and neutralization therapy remains elusive. Postulated attribution of diverse non-IgE mediated food reactions to skin and sublingual challenge with food antigens remedied by subsequent therapy with greater dilutions of the same antigens continues to be debated as does the evidence that psychological or behavioral abnormalities may be due to food allergy. Proponents of provocation/neutralization have relied on the results of research studies that have involved small numbers of heterogeneous subjects manifesting a rather diverse set of events said to be immunologically caused. There continues to be a lack of systematic research design and hypothesis formation concerning the mechanisms and manifestations of food hypersensitivity underlying the rationale for provocation/neutralization technology.

References

- (1) Lancet; Food Allergy-Editorial; 1979, V.1: 249-250.
- (2) Bernstein, M., Day, J.H., Welsh, A.; Double-blind Food Challenge in the Diagnosis of Food Sensitivity in the Adult; *J. Allergy Clin. Immunol.*; v70(3): 205-210 1982.
- (3) Sampson, H.A.; Role of Immediate Food Hypersensitivity in the Pathogenesis of

- Atopic Dermatitis; *J. Allergy Clin Immunol.* 71(5): 473-480, 1983.
- (4) Check, W.; Eat, Drink and Be Merry—or Argue About Food Allergy—Medical News; *JAMA* 250(6): 701-711, 1983.
- (5) American Academy of Allergy; Position Statements—Controversial Techniques; *J. Allergy Clin Immunol.*; 67(5): 333-338, 1981.
- (6) Grieco, M.H.; Controversial Practices in Allergy; *JAMA* 247(22): 3106-3111, 1982.
- (7) Miller, J.B.; Ltr.—Controversial Practices in Allergy; *JAMA* 248(17): 2113, 1982.
- (8) Podell, R.N.; Ltr.—Provocative Neutralization; *JAMA*, 249(15): 2021, 1983.
- (9) Terr, A.I.; The Cytotoxic Test (Editorial); *Western J. Med.*, 139(5): 702-3, 1983.
- (10) Levin, A.S. Miller, J.D., Weinstein, S.; Clinical and Scientific Demonstration of the Efficacy and Safety of Provocation Testing and Neutralization Therapy; Unpublished paper, 106 pp., 1983.
- (11) Boris, M. et al.; Antigen Induced Asthma Attenuated By Neutralization Therapy; Unpubl. 14 pp., 1983; Abstract presented: Amer. Acad. of Allergy 3/21/83; Abstract publ. *J. Allergy Clin. Immunol.*, 71:92, 1983.
- (12) Rea, W.J. et al.; Intracutaneous Neutralization of Food Sensitivity: A Double Blind Evaluation; Unpubl. 22 pp., 1983.
- (13) McGovern, J.J. et al.; Reliability of Provocative-Neutralization Procedure, Unpubl. 18 pp., 1983.
- (14) King, D.S.; Can Allergic Exposure Provoke Psychological Symptoms? A Double Blind Test; *Biological Psychiatry* 16(1): 3-17, 1981.
- (15) Levin, A.S.; op. cit., p. 77.
- (16) King D.S.; The Reliability and Validity of Intradermal and Sublingual Provocative Testing: A Critical Analysis of the Controlled Research; unpublished excerpt draft, (?) 1983.
- (17) King, D.S.; op. cit., p. A-10.
- (18) Podell, R.N.; letter to HCFA; 8/26/83.
- (19) Podell, R.N.; op. cit., p. 3.
- (20) Podell, R.N.; A Critical Review of Intracutaneous and Sublingual Provocation and Neutralization: Unpublished (accepted for Archives Clinical Ecology), 22 pp., 1983.
- (21) Podell; op. cit., p. 22.
- (22) Amer. Acad. of Otolaryngic Allergy, Inc.; Comments in Response to Notice of HCFA appearing in Fed. Register of August 19, 1983, unpublished, signed William P. King, M.D., President, 9/16/83.
- (23) Miller, J.B.; A Double Blind Study of Food Extract Injection Therapy: A Preliminary Report; *Annals of Allergy*, 38(3): 185-191, 1977.
- (24) Podell, op. cit., p. 14, 1983.
- (25) May, C.D. Block, S.A.; A Modern Clinical Approach to Food Hypersensitivity; *Allergy* 33:166-188, 1978.
- (26) Johnson, A.R., Rea, W.J.; A Comparison of Food Allergy Diagnostic Techniques: Oral Challenge, RAST, and Intracutaneous Provocative Food Testing; Unpublished 9 pp., (?) 1982.

Appendix B

Subsequent to OHTA's response to HCFA of January 11, 1984, but prior to OHTA's response to us of March 4, 1986, two published clinical studies of provocation/neutralization appeared in

the medical literature. Rea, et al. reported their results in 20 patients treated with subcutaneous neutralizing doses of food extracts to remedy a diverse list of complaints ascribed to allergic hypersensitivity (2). This study was included in unpublished form as part of OHTA's previous review. The same concerns about the study that were expressed earlier continue to prevail. Twenty patients with quite heterogeneous symptoms were involved, and serious methodologic flaws in the study design, including blinding and randomization, were present.

In January 1986, Terr published an evaluation of 50 patients in whom environmental illness was diagnosed by 16 clinical ecologists (1). Provocation/neutralization testing had been used to make the diagnosis in 41 of these cases. Terr reviewed the 50 patients and found that they had extremely heterogeneous histories with no consistent physical findings or laboratory abnormalities. He concluded that this group of patients "had characteristic symptoms of psychosomatic illness, but this study does not support the clinical ecology theory that psychosomatic illness may be an expression of food and chemical sensitivities induced by the toxic effect of environmental chemicals on the immune system." The author found it unlikely that the diagnostic and therapeutic methods of clinical ecology, including provocation-neutralization, can uncover and relieve disease.

Panush and Webster reviewed the topic of food allergies in 1985 (3). They concluded, based on an analysis of available data, that "cytotoxic testing, leukopenia index, and provocative sublingual or subcutaneous testing are all considered unproven."

The Scientific Board Task Force on Clinical Ecology of the California Medical Association published its findings in February 1985 (4). This critical appraisal was based on testimony from proponents as well as an exhaustive review of the published and unpublished scientific literature. It was reported that "No convincing evidence was found that patients treated by clinical ecologists have unique recognizable syndromes, that the diagnostic tests employed are efficacious and reliable or that the treatments are effective." Specific reference was made to methodologic flaws in Rea's study cited above (4).

References

- (1) Terr A.I. Environmental illness, a clinical review of 50 cases. *Arch Int Med* 1986; 146:145-149.

(2) Rea WJ, et al. Elimination of oral food challenge reaction by injection of food extracts. *Arch Otolaryngol* 1984; 110:248-252.

(3) Panush RS, Webster EM. Food allergies and other adverse reactions to foods. *Med Clin North Am* 1985; 69(3):533-546.

(4) California's Medical Association Scientific Board Task Force on Clinical Ecology. Clinical ecology-A critical appraisal (Information). *West J Med* 1986; 144:239-243.

Appendix C

The American Academy of Otolaryngology for Head and Neck Surgery has submitted a statement endorsing provocative neutralization testing and neutralization therapy as being appropriate for treatment of food allergy in clinical practice (1). The statement was adopted by the Academy's Board of Directors in 1984. No additional clinical data were appended to support this position.

The American Academy of Otolaryngic Allergy submitted a restatement of its position supporting the utility of intracutaneous and subcutaneous provocative and neutralization testing and treatment for food allergies that was prepared on March 27, 1986 (2). These comments reiterate the position of the Academy which was previously submitted to HCFA in 1983 (3). Various published and unpublished materials were appended. These included a 1977 study of food extract injection therapy by Miller and a 1983 study of food extract injection in the elimination of oral food challenge reactions by Rea that had already been reviewed by OHTA (4, 5). Two studies of respiratory allergy to animal dander by Boris and associates were appended, which represent continuations of Boris' earlier work on this topic (6, 8). These studies concern the neutralization of IgE mediated respiratory symptoms after bronchoprovocation challenge with animal dander antigen.

Three studies of the possible role of food allergy in migraine were submitted by the American Academy of Otolaryngic Allergy in support of their position (9-11). These reports concern conventional oral challenge testing methods for IgE mediated food allergy involving elimination diets and sequential reintroduction of suspect foods. As such, they do not address the safety and efficacy of food extract injection techniques. Two published lectures presented by Dr. William T. Kniker were also submitted (12, 13). These papers are expository in nature and do not offer additional clinical data. Food extract injection techniques were not addressed.

Two unpublished, undated papers on food allergy by Dr. Richard J. Trevino

were submitted (14, 15). No additional relevant clinical data were presented.

The American Academy of Otolaryngic Allergy also submitted an "Intradermal Provocative Food Testing Protocol." It was stated that the Academy's Research Committee is undertaking a "nationwide multicenter sixty patient double-blind clinical study of both intradermal provocative food testing and neutralization therapy" based on this protocol (2). No clinical data were offered.

References

1. Goldstein JC. Letter to HCFA; March 27, 1987 (sic); re position of Amer Acad Otolaryngology-Head and Neck Surgery on intracutaneous and subcutaneous provocative and neutralization testing and treatment for food allergies.
2. Boyles JH. Letter re position of Amer Acad Otolaryngic Allergy on intracutaneous and subcutaneous provocative and neutralization testing and treatment for food allergies.
3. Amer Acad of Otolaryngic Allergy. Comments on response to notice of HCFA appearing in Fed Register of August 19, 1983, unpubl., signed Wm. P. King, MD, president, September 16, 1983.
4. Miller JB. A double-blind study of food extract inject therapy: A preliminary report. *Ann of Allergy*, 1977; 38:185-91.
5. Rea WJ, Podell RN, Williams ML, et al. Elimination of oral food challenge reaction by injection of food extracts. *Arch Otolaryngol*, 1984; 110:248-52.
6. Boris M, Schiff M, Weindorf S. Injection of low dose antigen attenuates the response to subsequent bronchoprovocative challenge. Unpubl., undated, 12 pp.
7. Boris M, Weindorf S, Corriel RN, et al. Antigen induced asthma attenuated by neutralization therapy. *J Clinical Ecology*, 1985; 3(2):59-62.
8. Boris M, Schiff M, Weindorf S, et al. Bronchoprovocation blocked by neutralization therapy (Abstract). *J Allergy Immunol*, 1983; 71:92.
9. Monro J, Carini C, Brostoff J, Zilkha K. Food allergy in migraine. *Lancet*, 1980; July 5; pp. 1-4.
10. Monro J, Carini C, Brostoff J. Migraine is a food-allergic disease. *Lancet*, 1984; Sept. 29; pp. 719-21.
11. Egger J, Carter CM, Wilson J, et al. Is migraine food allergy? *Lancet*, 1983; Oct 15; pp. 865-69.
12. Kniker WT. Deciding the future for the practice of allergy and immunology. *Ann Allergy*, 1985; 55:106-13.
13. Kniker WT. Delayed food reactions present challenge. *Allergy Observer*, 1986; 3:4-5.
14. Trevino RJ. Immunology of in vivo food allergy test techniques. Unpubl., undated, 12 pp.
15. Trevino RJ. Immunology of foods. Unpubl., undated, 9 pp.

[FR Doc. 88-22093 Filed 9-28-88; 8:45 am]

BH LING CODE 4120-03-M

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, we are proposing to establish a new system of records: Medicare-Cancer Registry Record System, HHS/HCFA/ORD No. 09-70-0042. We have provided background information about the proposed system in the "Supplementary Information" section below. Although the Privacy Act requires only that the "routine uses" portion of the system be published for comment, HCFA invites comments on all portions of this notice.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Acting Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on September 26, 1988. The new system of records, including routine uses, will become effective on or before November 28, 1988, unless HCFA receives comments which would necessitate alteration to the system.

ADDRESS: The public should address comments to Richard A. DeMeo, HCFA Privacy Act Officer, Office of Management and Budget, Health Care Financing Administration, G-M-1 ELR, 6325 Security Blvd., Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Gerald Riley, Analytical Studies Branch, Office of Research and Demonstration, 2504 Oak Meadows Bldg., 6325 Security Blvd., Baltimore, Maryland 21207, telephone (301)-966-6699.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records containing data collected under the authority of section 1875(a) of the Social Security Act (42 USC 139511(a)) and sections 301 and 401-416 of the Public Health Service Act (42 U.S.C. 241 and 285-285a-5).

Section 1875(a) states that "The Secretary shall carry on studies and develop recommendations to be submitted from time to time to the Congress relating to health care of the aged and the disabled * * *." We plan to create a records system linking individual-level data from the Surveillance, Epidemiology, and End Results (SEER) tumor registry system, operated by the National Cancer Institute (NCI), with Medicare

enrollment and claims data. This linked file will greatly enhance HCFA's and NCI's ability to understand and evaluate the amount and kinds of services received by Medicare beneficiaries contracting cancer.

The SEER program is a set of population based tumor registries funded by NCI with the goal of collecting information on every case of cancer diagnosed within the catchment areas covered by each tumor registry. The NCI has contracts with local health oriented agencies to collect these data. Currently SEER data are available for about ten percent of the U.S. population, including several entire States, several metropolitan areas, and several rural areas. The dataset contains information on each cancer case, such as anatomic site of the primary cancer, histology, stage of the disease at diagnosis, date of diagnosis, and other items. In addition, demographic information is also collected, such as residence down to the census tract level, age, race, and sex. The NCI reports on cancer incidence, mortality, and survival every year using SEER as the primary source of their data.

Merging SEER data with HCFA data on cost and utilization of Medicare services on an individual level will make possible studies on treatment costs for Medicare cancer patients from time of diagnosis onward. The dataset can be used to compare total medical costs of patients diagnosed with different stages of cancer. The merged dataset will also provide descriptive data on the costs of hospitalizations for cancer, controlling for site and stage of cancer, and by socio-demographic characteristics. Regional variations in the costs of treating Medicare cancer patients can also be explored.

The merged dataset could also be used to examine issues of access to care. Differences in treatment by age or race could be identified, controlling for stage at diagnosis, as well as comorbid conditions. Differences in survival could also be measured, controlling for comorbidities. Outcomes for beneficiaries treated in different kinds of institutions (e.g. oncology centers vs. community hospitals) could also be compared.

The Privacy Act, 5 U.S.C. 3552a, allows us to disclose information without the consent of the individual for "routine uses"—that is, disclosure for purposes which are compatible with the purpose for which we collected the data. The proposed routine uses in the new system meet the compatibility criteria since the SEER information is collected for the purpose of measuring the incidence and prevalence of cancer

nationally and evaluating outcomes in the form of survival. The merged dataset will further this work by refining the measurement and comparison of outcomes. Medicare data are collected in part to evaluate the use of services by beneficiaries. The merged dataset will enhance our understanding of access to and effectiveness of services received by beneficiaries suffering from cancer.

We anticipate that disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: September 22, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

09-70-0042

SYSTEM NAME:

Medicare-Cancer Registry Record System, HHS/HCFA/ORD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Statistics and Data Management, BDMS, HCFA 6325 Security Boulevard Baltimore Maryland 21207

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare beneficiaries diagnosed with cancer in 11 geographic areas of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data from 11 Surveillance, Epidemiology, and End Results (SEER) program cancer registries linked with Medicare enrollment and claims data. The areas covered by the 11 registries are Iowa, Utah, Hawaii, New Mexico, Connecticut, New Jersey, Puerto Rico, San Francisco-Oakland, Atlanta, Detroit, and Seattle.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1875(a) of the Social Security Act (42 U.S.C. 139511(a)) and Sections 301 and 410-416 of the Public Health Service Act (42 U.S.C. 241 and 281-285a-5).

PURPOSE OF THE SYSTEM:

To study the use of health care services by Medicare beneficiaries with cancer. Treatment costs by cancer site, stage at diagnosis, and comorbidities will be examined. The proposed system will be used for purposes of research and statistics only.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure may be made:

(1) To a Congressional office from the records of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(2) To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

(3) To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health or the use of health services, if HCFA and NCI:

(a) Determine that the use of disclosure does not violate legal limitations under which record was provided, collected, or obtained.

(b) Determine that the purpose for which the disclosure is to be made:

1. Cannot be reasonably accomplished unless the record is provided in individually identifiable form;

2. Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

3. There is reasonable probability that the objective for the use would be accomplished.

(c) Require the information recipient to:

1. Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record; and

2. Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project unless the recipient presents an adequate justification of a research or health nature for retaining such information; and

3. Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual;

(b) For use in another research project, under these same conditions, and with written authorization of HCFA and NCI;

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

(d) When required by law.

(d) Secure a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

(4) To the individual registries participating in the SEER program for purposes of analyzing records in the system. Relevant records will be disclosed to the registries only for purposes of research and evaluation. Only records on individuals in a particular registry will be disclosed to that registry.

(5) To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS or any component thereof; or
(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employees in his or her individual capacity where the Department of Justice (or HHS where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof, where HHS determines that the litigation is likely to affect HHS or any of its components;

is a party to litigation or has interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic tape and computer disk.

RETRIEVABILITY:

Records will be retrieved by Medicare identification numbers. Safeguards: For computerized records, safeguards established in accordance with guidelines in the DHHS Systems Manual, Part 6 "ADP Systems Security", (e.g., security codes, use of passwords) will be used, limiting access to authorized personnel.

SAFEGUARDS:

For computerized records, safeguards established in accordance with guidelines in the DHHS ADP Systems Manual, Part 6, "ADP Systems Security", (e.g., security codes, use of passwords) will be used, limiting access to authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained in a secure storage area with identifiers as long as needed for program research. Records will be disposed 3 years after research is completed.

SYSTEM MANAGER AND ADDRESS:

Director, Bureau of Data Management and Strategy, Health Care Financing Administration, 1-E-9 Oak Meadows Bldg., 6325 Security Blvd., Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager at the address shown above and give (1) name of system, (2) Medicare identification number, (3) person's name, and (4) address.

RECORDS ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents.

CONTESTING RECORDS PROCEDURES:

Contact the System Manager named above, and reasonably identify the record and specify the information being contested. State the reason for contesting the records procedures with supporting justification, (e.g., why it is inaccurate, irrelevant, incomplete, or not current).

RECORD SOURCE CATEGORIES:

Surveillance, Epidemiology, and End Results (SEER) program cancer registry records and Medicare enrollment and claims files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 88-22281 Filed 9-28-88; 8:45 am]

BILLING CODE 4120-03-M

Health Resources and Services Administration

Advisory Council; Meeting; October

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1988:

Name: National Advisory Council on the National Health Service Corps.

Date and Time: October 23-26, 1988.

Place:

Sheraton Waterfront Hotel, 2006 Coos Street, Montgomery, Alabama 36014, on October 23—5:00 p.m.—8:00 p.m. and October 24—8:00 a.m.—12:00 noon

Callaway Gardens, Pine Mountain, Georgia 31822 on October 26—8:00 a.m. 3:30 p.m.

The meeting is open to the public.

Visits will be made to National Health Service Corps sites in Montgomery, Hayneville, Tuskegee and Lafayette on Monday afternoon and Tuesday, October 24 and 25. No transportation will be provided for visitors and observers.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provision of the legislation.

Agenda: The agenda will include a discussion of activities in Region IV, overall NHSC policies, and other topics at the pleasure of the Council.

Anyone requiring information regarding the subject Council should contact Anna Mae Voigt, National Advisory Council on the National Health Service Corps, Room 7A-23, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-4814.

Agenda items are subject to change as priorities dictate.

Date: September 26, 1988.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 88-22341 Filed 9-28-88; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Center for Nursing Research Nursing Science Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Nursing Science Review Committee, National Center for Nursing Research, October 5-7, 1988, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on October 5 from 9 a.m. to 1:30 p.m. Agenda items to be discussed will include the report of the Director, NCNR, NRRRC Chairman's Report, the Executive Secretary's Report, and a Workshop on the National Research Service Institutional Training Grant (T32) Award. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 5 from 1:30 p.m. to recess, October 6, 9 a.m. to recess, and October 7 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Eileen Raizen, Executive Secretary, Nursing Science Review Committee, National Institutes of Health, Building 31A, Conference Room 2, Bethesda, Maryland 20892, (301) 496-0472, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: September 21, 1988.

Betty J. Beveridge,
Committee Management, Officer, NIH.
[FR Doc. 88-22412 Filed 9-28-88; 8:45 am]
BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), October 6, 7, and 8, 1988, National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20892. This meeting will be open to the public on October 6 from 8 p.m. to 10 p.m., October 7 from 9 a.m. to 12 noon and again from 2 p.m. to 4:30 p.m., and October 8 from 9 a.m. to 10:30 a.m. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIDDK Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 6 from 7:30 p.m. to 8 p.m., October 7 from 12 noon to 2 p.m. and again from 4:30 p.m. to recess, and October 8 from 10:30 a.m. to adjournment for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIDDK, including consideration of personnel qualifications and

performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Diabetes and Digestive and Kidney Diseases, Building 31, Room 9A19, Bethesda, Maryland 20892. Further information concerning the meeting may be obtained by contacting the office of Dr. Jesse Roth, Executive Secretary, Board of Scientific Counselors, National Institutes of Health, Building 10, Room 9N-222, Bethesda, Maryland 20892, (301) 496-4128.

Dated: September 21, 1988.

Betty J. Beveridge,
NIH Committee Management Officer.
[FR Doc. 88-22411 Filed 9-28-88; 8:45 am]
BILLING CODE 4140-01-M

Social Security Administration

Finding on Foreign Social Insurance or Pension System; Kuwait

AGENCY: Social Security Administration, HHS.

ACTION: Notice of finding regarding foreign social insurance or pension system—Kuwait.

Finding

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in section 202(t)(2) through 202(t)(5) of the Social Security Act 42 U.S.C. 402(t)(2) through 402(t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that, subject to certain residency requirements of section 202(t)(11), the prohibition against payment shall not apply to any individual who is a citizen of a country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and which:

- (1) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and
- (2) Permits individuals who are United States citizens but not citizens of that country and who qualify for such

benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Secretary of Health and Human Services has delegated the authority to make such a finding to the Commissioner of Social Security. The Commissioner has redelegated that authority to the Director of the International Policy Staff. Under that authority the Director of the International Policy Staff has approved a finding that Kuwait, beginning October 1, 1977, has a social insurance system of general application in effect which pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death, but that under this social insurance system, citizens of the United States who are not citizens of Kuwait and who leave Kuwait, are not permitted to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside that country.

Accordingly, it is hereby determined and found that Kuwait has in effect, beginning October 1, 1977, a social insurance system which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A)), but not the requirements of section 202(t)(2)(B) of the Act (42 U.S.C. 402(t)(2)(B)).

This finding also affects the application of subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C. 402(t)(4)(A) and (B)). That section provides that, subject to certain residency requirements of section 202(t)(11), section (t)(1) shall not be applicable to benefits payable on the earnings record of an individual who has 40 quarters of coverage under Social Security or who has resided in the United States for a period or periods aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By virtue of the finding with respect to section 202(t)(2) herein, the provisions of subparagraphs (A) and (B) of section 202(t)(4) do not apply to citizens of Kuwait.

FOR FURTHER INFORMATION CONTACT:

J. Joseph Rausch, Room 1104, West High Rise Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-3567.

(Catalog of Federal Domestic Assistance Programs No. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security Survivors Insurance)

Dated: September 22, 1988.

Elizabeth K. Singleton,

Director, International Policy Staff.

[FR Doc. 88-22291 Filed 9-28-88; 8:45 am]

BILLING CODE 4190-11-M

Finding on Foreign Social Insurance or Pension System; Zaire

AGENCY: Social Security Administration, HHS.

ACTION: Notice of finding regarding foreign social insurance or pension system—Zaire.

Finding: Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in section 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that, subject to certain residency requirements of section 202(t)(11), the prohibition against payment shall not apply to any individual who is a citizen of a country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and which:

(1) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(2) Permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Secretary of Health and Human Services has delegated the authority to make such a finding to the Commissioner of Social Security. The Commissioner has redelegated that authority to the Director of the International Policy Staff. Under that authority the Director of the International Policy Staff has approved a finding that Zaire (formerly the Republic of the Congo (Leopoldville)), beginning April 1, 1988, has a social insurance system of general application in effect which pays periodic benefits, or

the actuarial equivalent thereof, on account of old age, retirement, or death, but that under this social insurance system, citizens of the United States who are citizens of Zaire and who leave Zaire, are not permitted to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside that country.

Accordingly, it is hereby determined and found that Zaire has in effect, beginning April 1, 1988, a social insurance system which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A)), but not the requirements of section 202(t)(2)(B) of the Act (42 U.S.C. 402(t)(2)(B)).

This finding also affects the application of subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C. 402(t)(4) (A) and (B)). That section provides that, subject to certain residency requirements of section 202(t)(11), section 202(t)(1) shall not be applicable to benefits payable on the earnings record of an individual who has 40 quarters of coverage under Social Security or who has resided in the United States for a period of periods aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraphs (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By Virtue of the finding with respect to section 202(t)(2) herein, the provisions of subparagraph (A) and (B) of section 202(t)(4) do not apply to citizens of Zaire beginning April 1, 1988.

This revises our previous finding, published at 28 FR 9966 on September 13, 1963, that Zaire (formerly known as the Republic of the Congo (Leopoldville)) had in effect a social insurance or pension system that meets the requirements of both subparagraphs (A) and (B) of section 202(t)(2) of the Social Security Act.

FOR FURTHER INFORMATION CONTACT: J. Joseph Rausch, Room 1104, West High Rise Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-3567.

(Catalog of Federal Domestic Assistance Programs No. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security Survivors Insurance)

Dated: September 22, 1988.

Elizabeth K. Singleton,

Director, International Policy Staff.

[FR Doc. 88-22292 Filed 9-28-88; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is revising four notices describing systems of records maintained by the Minerals Management Service. The changes being published are editorial in nature, and reflect organization and other minor administrative revisions which have occurred since the previous publication of the material in the Federal Register. The four notices being revised, which are published in their entirety below, are:

1. INTERIOR/MMS-2; Personal Property Accountability Records—Interior, MMS-2; previously published on November 7, 1985 (50 FR 46356).
2. INTERIOR/MMS-3; Accident Reports and Investigations—Interior, MMS-3; previously published on November 7, 1985 (50 FR 46357).
3. INTERIOR/MMS-4; Minerals Management Service (MMS) Personnel Security System—Interior, MMS-4; previously published on January 30, 1987 (52 FR 3059).
4. INTERIOR/MMS-10; Procurement Network System (PRONET)—Interior, MMS-10; previously published on April 21, 1988 (53 FR 13194).

Since these changes do not involve any new or intended use of the information in the systems of records, the notices shall be effective on September 29, 1988. Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PMI), Room 2242, Main Interior Building, U.S. Department of the Interior, Washington, DC 20240.

Oscar W. Mueller, Jr.,

Director, Office of Management Improvement.

Dated: September 21, 1988.

INTERIOR/MMS-2

SYSTEM NAME:

Personal Property Accountability Records—Interior, MMS-2

SYSTEM LOCATION:

(1) Procurement and Property Management Division, Minerals Management Services, 12203 Sunrise Valley Drive, Reston, Virginia 22091; and (2) Administrative offices in substantially all field locations. A listing of field locations is available from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of MMS who are accountable for Government owned controlled property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of assignment of an internal identification number and acknowledgment of receipts by employees. Records of transfers to other accountable employees. Inventory records containing employee social security numbers and duty stations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to:

- (1) Maintain control over MMS-owned and controlled property; and
- (2) maintain up-to-date inventory and to record accountability for the property.

Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is party to litigation or anticipated litigation or has an interest in such litigation; and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; made at the request of that individual; (4) to a Federal Agency which has requested information relevant or necessary to its hiring or retention of an employee, or

issuance of a security clearance, license, contract, grant, or other benefit; and (5) of Federal State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are both manual and computerized.

RETRIEVABILITY:

By employee social security number.

SAFEGUARDS:

Access by authorized employees only.

RETENTION AND DISPOSAL:

Retention and disposal is in accordance with General Records Schedule No. 23, Item No. 1.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property Management Branch, Procurement and Property Management Division, Minerals Management Service, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

Contact the System Manager or the pertinent field installation. See 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

Same as above or to the pertinent field installation for access. See 43 CFR 3.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual employees and property management personnel.

INTERIOR/MMS-3**SYSTEM NAME:**

Accident Reports and Investigations—Interior. MMS-3.

SYSTEM LOCATION:

Financial and Administrative Management Division, Minerals Management Services, Mail Stop 632, 12203 Sunrise Valley Drive, Reston, Virginia 22001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel of the Minerals Management Services (MMS) who have had on-the-job accidents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form D1-134, Accident Reports, correspondence, historical information, and corrective action reviews relating to accidents which have occurred on-the-job.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are:

- (1) To maintain records of accidents in which MMS employees have been involved;
- (2) to report statistics and trends to the Department;
- (3) to monitor and report progress of the safety program in the MMS, using historical data and records of actions taken.

Disclosure outside of the Department may be made: (1) To the U.S. Department of Justice or in a proceeding before a court of adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is party to litigation or anticipated litigation or has an interest in such litigation; and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the status, rule, regulation, order, or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal Agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; and (5) of Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in manual form in file folders.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Kept in locked cabinet. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Retention and disposal is in accordance with General Records Schedule No., 18, Item No. 12.

SYSTEM MANAGER(S) AND ADDRESS:

Safety and Occupational Health Manager, Financial and Administrative Management Division, Minerals Management Service, Mail Stop 632, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him or her must be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A request for access must be in writing, signed by the requester, submitted to the Systems Manager, and meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Accident victims, witnesses, supervisors, and investigators.

INTERIOR/MMS-4**SYSTEM NAME:**

Minerals Management Service (MMS) Personnel Security System—Interior, MMS-4.

SYSTEM LOCATION:

Department of the Interior, Minerals Management Service (MMS), Office of Administration, Security Office, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Minerals Management Service (MMS) employees, and contract employees working for the MMS who have been subject to personnel security investigations to determine suitability for placement in sensitive positions, require access to national security information, and/or require ADP access authorization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, sensitivity type, date of birth, place of birth, social security number,

organization code, position title, grade, duty station, Office of Personnel file folder location (OPF), clearance, clearance date, access, clearance termination date, ADP type, grant date, ADP termination date, briefing information, suitability date, investigation basis, Agency conducting investigation, investigation completion date, investigation update and upgrade information, MMS termination date, pending code, remarks. The automated portion of this system is only a compilation of records manually maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10501.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary use of the records is to ensure that investigative requirements of Federal Personnel Manual 731 are satisfied and to provide a current record of MMS employees with clearance and ADP access authorizations. Disclosure outside of the Department may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department is a party to litigation; and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) to a Congressional office from the record of an individual in response to an inquiry the individual has made to the Congressional office; (4) to a Federal Agency which has requested information relevant or necessary to its hiring or retention of an employee or issuance of a security clearance, license, contract, grant, or other benefit; and (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance license, contract, grant, or other benefit; (6) to the Office of Personnel Management for matters concerned with oversight activities necessary for the Office to carry out its

legally authorized Governmentwide personnel management programs and functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Manual systems are maintained in locked GSA approved security containers. Automated data base system maintained on hard disk with password entry required. Backup disks maintained and stored in locked GSA approved security containers.

RETRIEVABILITY:

Indexed by individual name or social security number.

SAFEGUARDS:

Maintained within the Security Office meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

These records are maintained in accordance with the General Records Schedule Number 18, Item Number 23.

SYSTEM MANAGER AND ADDRESS:

Security Officer, Office of Administration, Minerals Management Service, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

Inquires regarding the existence of records should be addressed to the Security Officer. A signed request is required if an individual would like information concerning his/her records. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A request for access may be addressed to the Security Officer. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the Security Officer and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/MMS-10**SYSTEM NAME:**

Procurement Network System (PRONET)—Interior, MMS-10

SYSTEM LOCATION:

Department of the Interior, Minerals Management Service, Office of Administration, Procurement and

Property Management, Division, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual who have contracts with the Minerals Management Service. The records contained in this system which pertain to individuals contain principally proprietary information concerning sole proprietorship. The system also contains records concerning corporations and other business entities that are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of contract information, from inception of requirement, through contract award, contract administration, and completion of the contract. Also included are copies of contractor and technical and cost proposals, documentation pertaining to the award, contract, miscellaneous correspondence, and information on debts owed by a contractor as a result of overpayment, default, disallowed costs, or other contractual obligation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 481.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is in awarding and administering contracts through their completion. Disclosures outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal

Agency which has requested information relevant or necessary to its hiring or retention of an employee or issuance of a security clearance, license, contract, grant, or other benefit; (5) to Federal, State, or local Agencies where necessary to obtain information relevant or necessary to the hiring or retention of an employee or issuance of a security clearance license, contract, grant, or other benefit; (6) to the Department of Commerce for publication in the Commerce Business Daily; (7) to the General Services Administration for entry into the Federal Procurement Data System.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1986 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual and computerized form.

RETRIEVABILITY:

By name of individual contractor and by contract number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computer and manual records.

RETENTION AND DISPOSAL:

Retained and disposed of according to General Records Schedule No. 3, Item No. 4.

SYSTEM MANAGER AND ADDRESS:

Chief, Procurement Policy Branch, Mail Stop 635, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of a record should be addressed to the System Manager. A written signed request stating that the individual seeks information concerning his/her records is required. (43 CFR 2.60).

RECORD ACCESS PROCEDURE:

Requests for access shall be addressed to the System Manager,

signed by the requester and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information comes from the individual contractors.

[FR Doc. 88-22280 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-MR

Bureau of Land Management

[AK-968-4213-15; F-85569]

Alaska Native Claims Selection; Cook Inlet Region, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(e), will be issued to Cook Inlet Region, Inc. The lands involved encompass approximately 325 acres, and are located in the vicinity of Fairbanks, Alaska, within T. 1 N., R. 1 W., Fairbanks Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER. A copy of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government, or regional corporation, shall have until October 31, 1988 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Ramona Chinn,

Chief, Branch of Cook Inlet and Ahtna Adjudication.

[FR Doc. 88-22305 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-JA-M

[ID-020-08-4410-08]

Burley District Advisory Council; Meeting**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of meeting for Burley District Advisory Council.

SUMMARY: Notice is hereby given that the Burley District Advisory Council will meet on November 1, 1988. The meeting will convene at 10:00 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items are: (1) District Broom Snakeweed infestations, and (2) hazardous waste update. Information items are: (1) District fire policy, and (2) drought follow-up. A field tour will leave the District Office at 12:30 p.m. and return at 5:00 p.m.

This meeting is open to the general public. The comment period for persons or organizations wishing to make oral statements to the Council will start at 11:30 a.m. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, prior to the start of the meeting. Depending upon the number of persons wishing to make statements, a per time limit may be established by the District Manager. Written statements may also be filed. Individuals wishing to attend the field tour must provide their own transportation.

Minutes of the Council meeting will be maintained in the District Office and will be available for the public inspection during regular business hours.

DATE: November 1, 1988.**ADDRESS:** Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.**FOR FURTHER INFORMATION CONTACT:** Gerald L. Quinn, Burley District Manager, (208) 678-5514.

Dated: September 20, 1988.

Gerald L. Quinn,
District Manager.

[FR Doc. 88-22256 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-GG-M

[ID-030-09-4830-12]

Idaho Falls District Advisory Council; Meeting**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Meeting of the Idaho Falls District Advisory Council.

SUMMARY: The Idaho Falls District Advisory will meet Thursday, October 27, 1988. Notice of this meeting is in accordance with Pub. L. 92-463. The meeting will begin at 8:00 a.m. at the Idaho Falls District Office on 940 Lincoln Road, Idaho Falls, Idaho. The meeting is open to the public; public comments will be accepted from 8:00 a.m. to 8:30 a.m.

The agenda for this meeting includes a briefing on proposed management actions which will affect public lands along the Blackfoot River. Following the briefing, the Council will take a field tour of the Appendicitis Hills Wilderness Study Area (WSA), west of Arco, Idaho. The purpose of this tour will be to brief the Council on multiple use management in a WSA. The Council will be briefed on proposed management actions under Interim Management and how these actions could impact range, watershed and wildlife.

Persons interested in attending this tour are welcome but must provide their own transportation. Detailed minutes of the meeting will be maintained in the District Office and will be available for public review during business hours (7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Leroy Cook, Big Butte Resource Area Manager, Telephone (208) 529-1020.

Dated: September 23, 1988.

Lloyd H. Ferguson,
District Manager.

[FR Doc. 88-22272 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-GG-M

Susanville District Grazing Advisory Board; Meeting**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of meeting.

SUMMARY: Notice is hereby given that the Susanville District Grazing Advisory Board, created under the Secretary of the Interior's discretionary authority on May 14, 1986, will meet on November 1, 1988.

The meeting will begin at 10:00 a.m. at the Alturas Resource Area Office, of the Bureau of Land Management, 120 South Main Street, Alturas, California.

The agenda on November 1, will include a discussion of the "1989 Fiscal Year Gathering Plan for Wild Horses and Burros—Susanville District", an update on the Wild Horse and Burro Program Fiscal Year 1988, a discussion on the use of 8100 funds for Fiscal Year

1989 and out years, a report on Fiscal Year 1988 range improvement work, an update on the "Alturas Integrated Resource Management Plan", an update on the Buffalo Hills TRT work in progress, a discussion of non-use taken in the 1988 grazing season, a discussion of GAO reports, and a discussion of other items as appropriate.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:00 p.m. and 4:30 p.m. on November 1, 1988, or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130, by October 26, 1988. Depending on the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Robert J. Sherve,

Acting District Manager.

[FR Doc. 88-22270 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-40-M

[ID-020-08-4212-14]

Mineral Interest Applications; Idaho**AGENCY:** Bureau of Land Management, Idaho.**ACTION:** Application to purchase mineral interests owned by the United States, Cassia County, Idaho.

Notice is hereby given that an application to purchase the mineral interests owned by the United States on the following described lands was received by the Bureau of Land Management on September 19, 1988.

T. 14S., R. 24E., Boise Meridian
Section 1: Lots 5, 7, 8, 9, E $\frac{1}{2}$ SW $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 2: Lots 6 and 10
314.65 acres.

Publication of this notice segregates the mineral interests owned by the United States on the above described lands from appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance to such mineral interests, upon final rejection of the application, or two years from the date of filing the application, whichever ever occurs first.

Dated: September 20, 1988.

Gerald L. Quinn,

District Manager.

[FR Doc. 88-22255 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-66-M

[CO-010-08-4333-13]

Off-Road Vehicle Designations; Colorado

AGENCY: Bureau of Land Management, Craig District Office, Kremmling Resource Area Office, Interior.

ACTION: Notice of Off-Road Vehicle Designation Decisions and Implementation of Off-Road Vehicle Closures and Limitations for the Bureau of Land Management, Kremmling Resource Area.

SUMMARY: Notice is hereby given relating to the use of off-road vehicle on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Craig District of the Bureau of Land Management are designated as closed, limited, or open to off-road motorized vehicle use.

The 398,275 acres of public land affected by the designations are within the Kremmling Resource Area, which includes portions of public land in Eagle, Grand, Jackson, Larimer, and Summit Counties, Colorado. The designations are a result of resource management decisions made in the 1984 Kremmling Resource Management Plan. Comments received from public meetings in 1983, coordination with other federal, state, and local agencies, and comments received during a 90-day public comment period held in 1983, which included formal public hearings, influenced these designation decisions.

These designations for the public land located within the area listed below become effective immediately and will remain in effect until modified or rescinded by the Authorized Officer. The designation order supersedes a previous emergency off-road vehicle decision for the seasonal limitation of snowmobile in the Kremmling Resource Conservation/Wolford Mountain Area.

SUPPLEMENTARY INFORMATION: Off-road vehicle designations are effective for the following areas.

A. Closed Designation

All motorized vehicle use is prohibited year-around.

1. Troublesome Wilderness Study Area—8250 acres located 12 miles north of Kremmling, Colorado.

2. Platte River Contiguous Wilderness Study Area—30 acres located 18 miles north of Walden, Colorado.

3. North Park *Phacelia formosula* Research Natural Area, an Area of Critical Environmental Concern—310 acres located 5 miles west of Walden, Colorado.

4. Kremmling Cretaceous Ammonite Research Natural Area, an Area of Critical Environmental Concern—40 acres located 14 miles northeast of Kremmling, Colorado.

B. Limited Designation

1. Limited to Designation Roads and Trails

Motorized vehicle use is permitted only on routes signed as open for used and cross-country travel is prohibited, except for snowmobiles operating on snow unless otherwise stated.

a. Hebron Slough—2,840 acres located 11 miles south of Walden, Colorado. Seasonal closures and limitations are also in effect.

b. Windy Gap—300 acres located 3 miles north of Granby, Colorado.

c. Sulphur Gulch—5,200 acres located 7 miles east of Kremmling, Colorado.

d. Resource Conservation/Wolford Mountain Area—25,200 acres located 10 miles south of Kremmling, Colorado. Seasonal closures and limitations are also in effect for the use of snowmobiles.

2. Limited to Existing Roads and Trails

Motorized vehicle use is permitted only existing routes and cross-country travel is prohibited, except for snowmobiles operating on snow.

a. Lawson Ridge—3,360 acres located 4 miles south of Kremmling.

b. North Sand Hills—640 acres located 15 miles northwest of Walden, Colorado. Sand dunes are open to off-road vehicles except for nine fragile areas which are marked and closed to ORV's.

3. Vehicle Type Limitation

Motorized vehicle use is limited only to four wheel drive vehicles with high clearance. All Terrain Vehicles (ATV's), dirtbikes, and motorcycles equipped for off-road travel.

a. Inspiration Point Flats Jeep Trail—0.6 miles located 12 miles southwest of Kremmling, Colorado.

S. Seasonal Limitations and Closures

The restrictions listed below are in effect for a specific period of the year. During that period not listed, the area is open to motorized use unless previously identified as an area limited to designated roads and trails, or limited to existing roads and trails.

a. Resource Conservation/Wolford Mountain Area—25,200 acres located north of Kremmling, Colorado. Between December 1 and April 30, snowmobiles operating on snow are limited to approximately 32 miles of designated and marked trails, and snowmobiles are limited to approximately 130 acres of public land designated open to snowmobiles. The remaining 25,070 acres are closed to snowmobiles to protect big-game wintering areas and habitat.

b. Hebron Slough—2840 acres located 11 miles south of Walden, Colorado. Between June 1 and August 1, the area is closed to all motorized vehicles to protect nesting waterfowl. Between August 1 and June 1, motorized vehicles are limited to designated roads and trails. Snowmobiles operating on snow are excepted from this winter seasonal limitation.

5. Seasonal and Year-Around Road Closures

The restrictions listed below are in effect for specific periods of the year. During that period not listed, the roads are open to motorized use. These seasonal road closures are in effect to prevent damage to roads from use by motorized vehicles when conditions are wet and muddy or to provide big game security and quality hunting areas. Unless otherwise stated, snowmobiles operating on snow, All Terrain Vehicles (ATV's) dirtbikes, and motorcycles equipped for off payment travel are expected from these seasonal road closures.

a. Inspiration Point Flats Road and Jeep Trail—located 7 miles southwest of Kremmling, Colorado. Between December 1 and April 1, approximately 1.5 miles of road and jeep trail are closed by a locked gate.

b. Pumphouse Recreation Site Access Road—located 8 miles southwest of Kremmling, Colorado. Between December 1 and April 1, approximately 2 miles of road is closed by a locked gate.

c. Dice Hill Road No. 2750—located 10 miles south of Kremmling, Colorado. Between April 15 and June 1, approximately 10 miles of road is closed by a locked gate.

d. Black Mountain Access Road No. 2757—located 7 miles northeast of Kremmling, Colorado. Between April 15 and June 1, approximately 10 miles of road is closed by a locked gate.

e. Grouse Mountain Road No. 2758—located 4 miles north of Parshall, Colorado. Between April 1 and June 1, approximately 10.9 miles of road is closed by a locked gate.

f. Smith Mesa Road No. 2759—located 2 miles west of Hot Sulphur Springs, Colorado. Between April 15 and June 1, approximately 0.5 miles of road is closed by a locked gate.

g. Smith Mesa Lower Mainline Road No. 2762—located 2.5 miles northwest of Hot Sulphur Springs, Colorado. Between Labor Day and June 1, approximately 0.8 miles of road is closed by a locked gate.

h. Kinney Creek Road No. 2755—located 2 miles northeast of Hot Sulphur Springs, Colorado. Between April 15 and June 1, approximately 17.6 miles of road is closed by a locked gate.

i. McQueary Creek Road No. 2756—located 3 miles northeast of Hot Sulphur Springs, Colorado. Between Labor Day and June 1, approximately 2.5 miles of road and approximately 3000 acres of public land are closed to all motorized vehicles including All Terrain Vehicles (ATV's), dirtbikes, and motorcycles. A locked gate on the road provides big-game security and a quality hunting area in a non-motorized recreation setting.

j. Kinney Creek Spur Road—located 3.5 miles north of Hot Sulphur Springs, Colorado. Between Labor Day and June 1, approximately 3.2 miles of roads are closed by a locked gate to provide big-game security and a quality hunting area.

k. Sheriff Creek Road No. 2764—located 4 miles north of Hot Sulphur Springs, Colorado. Approximately 2.1 miles of this road is closed all year by a locked gate to prevent road damage when conditions are wet, to protect wildlife, and to provide a quality big-game hunting area.

l. Strawberry-Hurd Peak Roads Nos. 2751 and 2765—located 7.5 miles southeast of Granby, Colorado. Between April 15 and June 1, approximately 10.9 miles of roads are closed by a locked gate.

m. Buffalo Peak Access Roads Nos. 2507 and 2508—located 20 miles south of Walden, Colorado. Between April 15 and June 1, approximately 6.4 miles of road is closed by a locked gate.

n. Independence Mountain Access Roads Nos. 2503 and 2504—located 10 miles northwest of Walden, Colorado. Between April 15 and June 1, approximately 27.4 miles of roads are closed by a locked gate.

o. Parson's Draw Road No. 2513—located 14 miles northwest of Walden, Colorado. Approximately 1.3 miles of road is closed all year by a locked gate to prevent road damage when conditions are wet, to protect wildlife, and to provide a quality big-game hunting area.

p. Three Mile Creek Road No. 2510—located 15 miles northwest of Walden, Colorado. Between October 1 and June

1, approximately 1.4 miles of road is closed to all motorized vehicles by a locked gate to prevent road damage when conditions are wet, to protect wildlife, and to provide a quality big-game hunting area in a non-motorized recreation setting. Snowmobiles operating on snow are expected from seasonal road closure.

q. Mitchell Placer Road No. 2511—located 16 miles northwest of Walden, Colorado. Approximately 1.4 miles of road is closed all year by a locked gate to prevent damage when conditions are wet, to protect wildlife, and to provide a quality big-game hunting area.

r. Bull Mountain Road No. 2505—located 26 miles northeast of Walden, Colorado. Between April 15 and June 1, approximately 6.4 miles of road is closed by a locked gate.

s. Owl Mountain Roads Nos. 2502 and 2506—located 14 miles southeast of Walden, Colorado. Between April 15 and June 1, approximately 7.1 miles of road is closed by a locked gate.

t. Owl Mountain Spur Roads—located 15 miles southeast of Walden, Colorado. Approximately 3.6 miles of roads are closed all year by a locked gate to prevent road damage when conditions are wet, to protect wildlife, and to provide a quality big-game hunting area.

c. Open Designation

Motorized vehicles may be operated on the remaining 343,655 acres of public land in the Kremmling Resource Area, subject to the operating regulations and vehicles standards set forth in the Code of Federal Regulations (43 CFR Part 8340).

FOR FURTHER INFORMATION CONTACT: Dave Atkins, Area Manager, Kremmling Resource Area, P.O. Box 68, Kremmling, CO 80459.

David Atkins,
Area Manager.

[FR Doc. 88-22380 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-JB-M

[ID-030-08-4211-14, ID-030-08-4333-12,
ID-030-08-4351-11]

Restricted Vehicle Use; Idaho

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Restricted vehicle use; closure order.

SUMMARY: Notice was given November 17, 1987, in accordance with Title 43 CFR Group 8000—Recreation Programs and in accordance with the principles established by the National Environmental Policy Act of 1969 and the Federal Land Policy and

Management Act of 1976, that certain lands located in the Juniper Mountain Sand Dunes area of Fremont, Jefferson, and Madison Counties, Idaho were closed to all motorized vehicles between December 1 and March 31 of each year. This notice was published in the Federal Register of November 27, 1987, Vol. 52, page 45385.

The motor vehicle closure order applies to approximately 35,000 acres of public land west of St. Anthony, Idaho in and around the area known as the Juniper Mountain Sand Dunes. The parcels of public land affected by the closure order are fully described by legal subdivision in the Federal Register listed above and, therefore, are not repeated in this closure order.

The Bureau of Land Management issued rights-of-way to Fremont and Jefferson Counties, Idaho (I-22460 and I-22461 respectively) on February 22, 1988 for the construction and maintenance of the Egin-Hamer road. Subsequently, two appeals were filed with the Interior Board of Land Appeals concerning those rights-of-way and these are pending before the Board. One stipulation of the grants was that the road would be closed from December 1 to March 31 of each year.

On July 12, 1988, IBLA issued order IBLA 88-383 which directs the BLM to close the Egin-Hamer Road during the months of November and April during the pendency of the appeals. Therefore, the Egin-Hamer road will be closed to motor vehicles from November 1 to April 30 pending a final decision by the Interior Board of Land Appeals. The December 1 to March 31 vehicle closure of surrounding public lands remains in effect, and is not changed by this closure.

The road is located within the following described public lands:

Boise Meridian, Idaho

- T. 7 N., R. 37 E.,
Sec. 12, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 13, N $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 14, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 7 N., R. 38 E.,
Sec. 7, lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 9, S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 10, S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 11, S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 12, S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 13, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 14, N $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 15, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 17, N $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 18, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 7 N., R. 39 E.,
Sec. 7, lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$.

The official map of the Egin-Hamer road is on file in case files I-22460 and

I-22461 at the Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho.

EFFECTIVE DATE: This closure order shall be effective from November 1 to April 30 of each year until further notice.

FOR FURTHER INFORMATION CONTACT:

Lloyd H. Ferguson, District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. (208) 529-1020.

Dated: September 23, 1988.

Lloyd H. Ferguson,
District Manager.

[FR Doc. 88-22273 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-GG-M

[NV-930-08-4212-13; N-35298]

Issuance of Land Exchange Patent and Order Providing for Opening of Public Lands; Nevada

September 19, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and opening order.

SUMMARY: This notice identifies Federal and non-Federal lands involved in a recently completed exchange transaction. The lands acquired by the United States will become open to the operation of the public land laws including the mining, mineral leasing, and material sale laws, on the date specified below. All minerals except oil and gas were exchanged.

EFFECTIVE DATE: October 31, 1988.

FOR FURTHER INFORMATION CONTACT:

Rod Harris, District Manager, Elko District Office, Bureau of Land Management, P.O. Box 831, Elko Nevada 89801, (702) 738-4071.

SUPPLEMENTARY INFORMATION: The United States issued Patent No. 27-88-0017 to Ray Corta on September 15, 1988, for the following described lands pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716):

Mount Diablo Meridian Nevada

T. 32 N., R. 55 E.,

Sec. 28, all;

Sec. 32, all;

Sec. 34, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 36, W $\frac{1}{2}$ W $\frac{1}{2}$.

The area described contains 1,920.00 acres in Elko County, Nevada.

In exchange for these lands, the United States acquired the following described lands from Ray Corta:

Mount Diablo Meridian, Nevada

T. 32 N., R. 54 E.,

Sec. 13, all;

T. 32 N., R. 55 E.,

Sec. 9, all;

Sec. 15, all.

The area described contains 1,920.00 acres in Elko County, Nevada.

The purpose of this exchange was to acquire non-Federal lands which have high public values for recreation, fuelwood harvest, deer winter range and fisheries. The public interest was served through completion of this exchange.

The Federal and non-Federal lands in the exchange were of equal value, \$144,000.00.

At 10:00 a.m., on October 31, 1988, the lands acquired by the United States will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m., on October 31, 1988, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10:00 a.m., on October 31, 1988, the lands acquired by the United States will be open to location under the United States mining laws and to applications under the material sale laws.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

At 10:00 a.m., on October 31, 1988, the lands acquired by the United States will also be open to applications and offers under the mineral leasing laws, except for oil and gas.

Edward F. Spang,

State Director.

[FR Doc. 88-22252 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-MC-M

[ES 39047]

Realty Action; Recordable Disclaimer of Interest; Michigan

Notice is hereby given that the United States of America, pursuant to the provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1745, intends to disclaim and release all interest to the owner of record for the following described property to-wit: The 50% mineral interest reserved to the

Federal Farm Mortgage Corporation in the SW $\frac{1}{4}$, Section 9, T. 8 N., R. 5 W., Michigan Meridian, Michigan.

Solicitor's Opinion, BLM.ER.0019 (Sept. 2, 1988) indicates that the deed in which the reservation of 50% of the mineral interest was made by the Federal Farm Mortgage Corporation provided for the termination of that reservation on January 25, 1956.

Any person wishing to submit a protest or comments on the above disclaimer should do so in writing within 90 days of the publication date of this notice. If no protest(s) is received the disclaimer will be effective shortly after the end of the 90 day period.

The purpose of this notice is to afford any person or persons having a valid protest to the above action an opportunity to submit such protest to the Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, telephone (703) 461-1400 on or before expiration of the 90 day period.

G. Curtis Jones, Jr.,

State Director.

[FR Doc. 88-22274 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-GJ-M

[NV-930-08-4212-11; N-46521]

Realty Action; Lease for Recreation and Public Purposes; Clark County, NV

The following described public land in Laughlin, Clark County, Nevada has been identified and examined and will be classified as suitable for lease under the Recreation and Public Purposes Act, as amended (43 U.S.C. *et seq.*). The lands will not be offered for lease until at least 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T.32S., R.66E.,

Section 14, N $\frac{1}{2}$.

Aggregating 320 acres (gross).

This parcel of land contains approximately 320 acres. The applicant, Clark County, intends to use the land for a golf course. The lease when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1980, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such

deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County.

2. An easement for flood control facilities as identified in the Clark County Regional Flood Control Master Plan.

3. Nevada mining claim number 357666, Riverview No. 4, located 11/1/85.

The land is not required for any federal purpose. The lease is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the Federal Register, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the Federal Register.

Dated: September 16, 1988.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 88-22282 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-08-4212-14; N-43326]

Realty Action; Non-Competitive Lease/Sale of Public Lands in Clark County, NV

The following described land in the Bunkerville area of Clark County, Nevada has been determined to be suitable for lease and/or sale pursuant to sections 203 and/or 302 of the Federal Land Policy and Management Act (90 Stat. 2750; 43 U.S.C. 1713 and/or 90 Stat. 2762; 43 U.S.C. 1732) at not less than fair market value. The lands will not be offered for lease and/or sale until 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 13 S., R. 70 E.,

Sec. 34, lot 9.

The area described contains 10.21 acres.

The land is initially being offered under a non-competitive lease and/or sale to Mr. Bruno Biasi in order to resolve an unintentional trespass involving substantial development of the land for dairy farm use. Mr. Biasi owns the land abutting the west and north sides of the subject land. Mr. Biasi also owns all of the unauthorized improvements currently existing on the land. The improvements consist of corrals, barns, sheds, livestock watering facilities and driveways.

The ongoing use, of the land for dairy farm purposes, existed prior to the time Mr. Biasi purchased the dairy approximately 29 years ago. Restoration of the land to its original undisturbed state would not be in the public interest due to the character of the land having been substantially altered to the extent that restoration would not be practical. The lease and/or sale of this parcel of land would be in the public interest.

The lands are currently encumbered by a mining claim. The claim is identified as the Bandido No. 104 (NMC-206557) and the claimants of record are Earl W. and Marie G. Davis. The proposed lease and/or sale of the land would only involve 10.21 acres of the subject 80-acre claim. In the event that a relinquishment cannot be obtained from Mr. and Mrs. Davis, the lands will be leased. If a relinquishment is obtained the lands will be sold.

This land is not required for any federal purposes. The sale is consistent with the Bureau's planning system. The sale of this parcel would be in the public interest.

In the event of a sale, conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interest being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. Mr. Biasi will be required to pay a \$50.00 non-returnable filing fee for conveyance of the available mineral interests.

The patent, when issued, will contain the following reservation to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All oil and gas, sodium and potassium leasable mineral deposits shall be reserved to the United States, together with the right to prospect for,

mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at the Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, NV 89126.

and will be subject to:

1. Those rights for powerline purposes which have been granted to Overton Power District No. 5, its successors or assigns, by Right-of-Way No. CC 020948, under the Act of February 15, 1901, 31 Stat. 790.

2. Those rights for powerline purposes which have been granted to Overton Power District No. 5, its successors or assigns, by Right-of-Way No. N-4352, under the Act of March 4, 1911, 36 Stat. 1253.

3. Those rights for Federal Aid Highway purposes which have been granted to the State of Nevada, Department of Transportation, its successors or assigns, by Permit No. Nev-07490, under the Act of August 27, 1958, 72 Stat. 885.

If the proponent (Mr. Biasi) chooses not to proceed with a non-competitive lease and/or sale, the land may be sold utilizing competitive bidding procedures. Specific sale information and procedures will be made available to the public prior to the sale.

Upon publication of this notice in the Federal Register, the land will be segregated from all forms of appropriation under the public land laws, including the general mining laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126 concerning the lease and/or sale of the land. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Pub. L. 94-579, or other applicable laws.

Dated: September 16, 1988.

Charles Frost,

Acting District Manager.

[FR Doc. 88-22283 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-08-4212-11; N-49608]

Realty Action; Non-Competitive Sale of Public Lands in Clark County, NV

The following described land in the City of North Las Vegas, Clark County, Nevada has been determined to be suitable for sale utilizing non-competitive procedures, at not less than fair market value. Authority for the sale is section 203 of Pub. L. 94-597, the Federal Land Policy and Management Act of 1976 (FLPMA).

The lands will not be offered for sale until at least 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 19S., R. 61E.,

Section 21; S½

Section 28; all,

Section 33; N½NE¼,NW¼NW¼.

Aggregating 1,080.00 acres (gross)

The lands are to be offered to the City of North Las Vegas. The lands were originally patented to the City of North Las Vegas pursuant to the Recreation and Public Purposes Act, as amended, (43 U.S.C. 869, *et seq.*). Patent numbers 1228360 and 1231276 were issued on August 29, 1962 and March 14, 1963, respectively. The City of North Las Vegas has given notification to the Bureau of Land Management of reconveyance of the patented land so that it can be purchased pursuant to FLPMA. Purchase of these lands will enhance their development opportunities. The sale will not occur until the reconveyance has been accepted and an opening order published. The purpose of this notice is to allow public comment on the proposed action concurrent with action on the proposed reconveyance.

This land is not required for any federal purposes, as has been demonstrated by the previous action transferring it to the City in 1962. The sale is consistent with the Bureau's planning system. The sale of this parcel would be in the public interest.

In the event of a sale, conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interest being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required

to pay a \$50.00 non-returnable filing fee for conveyance of the available mineral interests.

The patent, when issued, will contain the following reservation to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Pub. L. 94-579, or other applicable laws.

Date: September 14, 1988.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 88-22284 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-MC-M

[NV-930-08-4212-11; N-47565]

Realty Action; Lease/Purchase for Recreation and Public Purposes Clark County, NV

The following described public land at Goodsprings, Clark County, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 24S., R. 58E., M.D.M.,

Section 26, SE¼SE¼NE¼NW¼.

Aggregating 2.5 acres (gross).

This parcel of land contains approximately 2.5 acres. The County intends to use the land for a fire station site. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe, and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County.

2. Those rights for roads, pipeline, and well site purposes which have been granted to Clark County by Permit No. N-27686 under the Act of October 21, 1976.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the Federal Register, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the Federal Register.

Dated: September 15, 1988.

Charles Frost,

Acting (District Manager, Las Vegas, NV).

[FR Doc. 88-22285 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-HC-M

[CA-940-08-4520-12; (Group 941)]

Plat of Survey; California

September 21, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Imperial County

T. 12 S., R. 9 W.

2. This Plat representing the dependent resurvey of a portion of the Third Standard Parallel South along a portion of the south boundary, and a portion of the subdivisional lines and the survey of the subdivision of section 34, Township 12 South, Range 9 East, San Bernardino Meridian, California under Group No. 941 California, was accepted July 11, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-22405 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; (Group 950)]

Plat of Survey; California

September 21, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, San Joaquin County
T. 1 S., R. 7 W.

2. This plat representing the dependent resurvey of a portion of the exterior boundaries of the Golden Gate National Recreation Area, and the survey of Lot 1, Parcel E, within the Golden Gate National Recreation Area, in Township 1 South, Range 7 West, Mount Diablo Meridian, California, under Group No. 950 California, was accepted July 27, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the National Park Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage

Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-22406 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; (Group 932)]

Plat of Survey; California

September 21, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Napa County
T. 9 N., R. 5 W.

2. This plat representing the dependent resurvey of a portion of the east boundary, a portion of the north boundary, a portion of the subdivisional lines, and the White Rock Deposit Mine (Lot 40), MS. 3172 and the survey of the subdivision of sections 1, 2, and 12, in Township 9 North, Range 5 West, Mount Diablo Meridian, California, under Group No. 932 California, was accepted July 23, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-22407 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; Group 939]

Plat of Survey; California

September 21, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, San Bernardino County
T. 4 S., R. 4 E.

2. This plat representing the dependent resurvey of a portion of the boundaries of section 14, the survey of a portion of the subdivision of section 14,

and the metes-and-bounds survey of lots 136 and 137, in section 14, Township 4 South, Range 4 East, San Bernardino Meridian, California, under Group No. 939 California, was accepted July 8, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Indian Affairs.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-22408 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; Groups 930]

Plat of Survey; California

September 19, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Plumas County
T. 22 N., R. 13 E.

2. This plat representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the survey of the subdivision of sections 10, 11, 12, and 15, Township 22 North, Range 13 East, Mount Diablo Meridian, California under Group No. 930 California, was accepted July 26, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Plumas National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-22263 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; Group 936]**Plat of Survey; California**

September 19, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, Humboldt County
T. 4 S., R. 5 E.

2. This plat representing the survey of section 22, Township 4 South, Range 5 E., Humboldt Meridian, California, under Group No. 936 California, was accepted February 11, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-22264 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; Groups 937]**Plat of Survey; California**

September 19, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Mendocino and Lake County

T. 13 N., R. 10 & 11 W.

2. This plat representing the dependent resurvey of a portion of the east boundary of T. 13 N., R. 11 W., and a portion of the subdivisional lines of Township 13 N., R. 10 W., and the survey of the subdivision of section 8, T. 13 N., R. 10 W., Mount Diablo Meridian, California under Group No. 937 California, was accepted June 14, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-22257 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-40-M

[AZ-921-08-4220-11, A-13371, A-13372]**Proposed Modification and Continuation of Withdrawals; Arizona**

September 20, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to modify and continue for 20 years two orders which withdrew lands in the Coconino National Forest. The lands are currently being used by the Forest Service for Clear Creek Campground. It is anticipated that there will be no change in land use. The Forest Service proposes that the lands will remain closed to operation of the mining laws only.

DATE: Comments to this notice should be received on or before December 28, 1988.

ADDRESS: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: Joy Ayers, BLM Arizona State Office, P.O. Box 16563, Phoenix Arizona 85011, 602-241-5534.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that the orders withdrawing lands from settlement, location, sale or entry for an indefinite period of time by Executive Orders 2046 dated September 15, 1914, and 2128 dated January 25, 1915, for Clear Creek Administrative Site for use as a ranger station be modified for a change of use and to impose a life term and be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands are currently being used as Clear Creek Campground.

Gila & Salt River Meridian

T. 13 N., R. 5 E.,

Sec. 13, E½E½.

The area described contains 160 acres in Yavapai County.

The purpose of the withdrawals is to provide protection from prospecting disturbance and from mining operations and to protect the improvements made to the area.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be modified and continued and, if so, for how long. Notice of final determination will be published in the *Federal Register*. The existing withdrawals will continue until such final determination is made.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88-22258 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-921-08-4220-11A-12970]**Proposed Continuation of Withdrawal; Arizona**

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that the order which withdrew lands within the Coconino National Forest for Mormon Lake Administrative Site be modified and continued for 20 years. The lands continue to be needed for the purpose withdrawn and will have no change in land use. The Forest Service proposes that the lands be segregated from operation of the mining laws only.

DATE: Comments to this notice should be received on or before December 28, 1988.

ADDRESS: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: Joy Ayers, BLM Arizona State Office, P.O. Box 16563, Phoenix Arizona 85011, 602-241-5534.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that the orders withdrawing lands from all forms appropriation under the public land

laws for an indefinite period of time for the Mormon Lake Administrative Site by Secretarial Order dated October 26, 1906, and July 27, 1907, partially revoked by Secretarial Order dated August 8, 1907, be modified and continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands are described as follows:

Gila & Salt River Meridian

T. 18 N., R. 9 E.,
Sec. 27, SW ¼
Sec. 28, E ½ SE ¼

The area described contains 240 acres in Coconino County.

The purpose of the withdrawal is for the administration and protection of the administrative site and its improvements. The lands have been and will continue to be open to mineral leasing and will continue to be closed to operation of the mining laws only.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be modified and continued and, if so, for how long. Notice of final determination will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations

[FR Doc. 88-22259 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-921-08-4220-11, A-13356]

Proposed Continuation of Withdrawal; Arizona

September 20, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to modify and continue an order which withdrew lands for 20 years for Beaver Creek Administrative Site in the Coconino National Forest. The lands continue to be needed for the purpose

they were withdrawn and will have no change in land use. The Forest Service proposed that the lands be segregated from operation of the mining laws only.

DATE: Comments to this notice should be received on or before December 28, 1988.

ADDRESS: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT:

Joy Ayers, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-241-5534.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that Secretarial Order dated June 22, 1908, which withdrew lands from appropriation and use of all kinds under the public land laws for an indefinite period of time for use as Beaver Creek Administrative Site, be modified and the withdrawal be continued for 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described lands:

Gila & Salt River Meridian

T. 15 N., R. 6 E.,
Sec. 21, SE ¼ SE ¼;
Sec. 22, W ¼ SW ¼ SW ¼;
Sec. 27, NW ¼ NW ¼ NW ¼;
Sec. 28, N ½ NE ¼ NE ¼.

The area described contains 90 acres in Yavapai County.

The purpose of the withdrawal is for the administration and protection of the administrative site. The Forest Service proposes that the lands be closed to operation of the mining laws only.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of final determination will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations

[FR Doc. 88-22260 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-921-08-4220-11, A-12971]

Proposed Partial Continuation of Withdrawal; Arizona

September 20, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to partially modify and continue for 20 years an order which withdrew lands in the Coconino National Forest for Long Valley No. 1 Administrative Site. The lands continue to be needed for the purpose they were withdrawn and will have no change in land use. The Forest Service proposes that the lands be segregated from operation of the mining laws only. The remaining land in the withdrawal were conveyed out of Federal ownership and are not to be continued as part of the withdrawal but are to be eliminated for record clearing purposes.

DATE: Comments to this notice should be received on or before December 28, 1988.

ADDRESS: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT:

Joy Ayers, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-241-5534.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that Secretarial Order dated November 23, 1906, which withdrew lands from all forms of appropriation under the public land laws for an indefinite period of time for use as a Ranger Station be partially modified and continued for 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described lands:

Gila & Salt River Meridian

T. 13 N., R. 10 E.,
Sec. 6, lots 13, 14;
Sec. 7, E ½;
Sec. 18, NE ¼.

The area described contains 549.86 acres in Coconino County.

The lands conveyed out of Federal ownership under a Forest Service Small Tract Act quit claim deed dated April 24, 1986, and eliminated from the withdrawal for record clearing purposes, comprise 10.14 acres in Homestead Entry Survey 88, located in section 6, T. 13 N., R. 10 E., G&SRM.

The purpose of the withdrawal is for the administration and protection of the administrative site. The lands will continue to be closed to operation of the mining laws only.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be partially modified and continued and, if so, for how long. Notice of final determination will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88-22261 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-921-08-4220-11, AR-011394]

Proposed Partial Continuation of Withdrawal; Arizona

September 20, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that the order which withdrew lands within the Coconino National Forest for landing approach ways to Flagstaff Municipal Airport be partially modified and the withdrawal be continued for 20 years insofar as it affects 307.62 acres of National Forest System land in the State of Arizona. The lands continue to be needed for the purpose withdrawn and will have no change in land use. The Forest Service proposes that the lands be withdrawn from operation of the mining and mineral leasing laws.

DATE: Comments to this notice should be received on or before December 28, 1988.

ADDRESS: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: Joy Ayers, BLM Arizona State Office,

P.O. Box 16563, Phoenix, Arizona 85011, 602-241-5534.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that Public Land Order 1418, dated May 17, 1957, which withdrew lands from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, for an indefinite period of time be partially modified and continued for 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following-described lands in the State of Arizona:

Gila & Salt River Meridian

T. 20 N., R. 7 E.,

Sec. 4, lot 2, NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 8, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 9, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 21 N., R. 7 E.,

Sec. 33, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 307.62 acres in Coconino County.

The remaining 12.50 acres will be eliminated from the withdrawal as a record clearing action. These lands were patented under the General Exchange Act, Patent No. 02-69-0040 on December 19, 1968, and encompass the N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, sec. 8, T. 20 N., R. 7 E.

The purpose of the withdrawal is for the protection of the landing approach ways to the City of Flagstaff Municipal Airport. The lands will continue to be closed to operation of the mining and mineral leasing laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of final determination will be published in the **Federal Register**. The

existing withdrawal will continue until such final determination is made.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88-22262 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-32-M

[NV-943-07-4220-10; N-16095]

Withdrawal and Reservation of Lands; Nevada

September 20, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice provides official publication of the legal description of the Groom Mountain Addition to the Nellis Air Force Range withdrawal in Nevada as required by section 2(a) of Pub. L. 99-606 enacted November 6, 1986, as amended by Pub. L. 100-338 enacted June 17, 1988.

EFFECTIVE DATE: June 17, 1988.

FOR FURTHER INFORMATION CONTACT:

Vienna Wolder, Bureau of Land Management, Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702-784-5481.

SUPPLEMENTARY INFORMATION: The legal description of the public land withdrawal for the Groom Mountain Addition to the Nellis Air Force Range effected by Pub. L. 100-338 is as follows:

Mount Diablo Meridian, Nevada

T. 5 S., R. 55 E.,

Secs. 1, 12, 13, 24, 25, 36.

T. 6 S., R. 55 E.,

Secs. 1, 12, 13, 24, 25, 36.

T. 7 S., R. 55 E.,

Secs. 1, 12, 13, 24, 25;

Sec. 36, N $\frac{1}{2}$.

T. 5 S., R. 55 $\frac{1}{2}$ E.,

Sec. 6, exclusive of Mineral Patent 9368;

Secs. 7, 8, 16-21, incl.; 28-33, incl.

T. 6 S., R. 55 $\frac{1}{2}$ E.,

T. 7 S., R. 55 $\frac{1}{2}$ E.,

Secs. 4, 6, 7, 9, 16, 18-21, incl.; 26-30, incl.;

Sec. 5, exclusive of Mineral Patents 1660 and 1661;

Sec. 8, exclusive of Mineral Patents 1660, 1661, and 1034979;

Sec. 17, exclusive of Mineral Patent 1055957;

Secs. 31-33, incl.; N $\frac{1}{2}$.

T. 5 S., R. 56 E.,

Secs. 19, 27-35, incl.;

Sec. 20, exclusive of Mineral Patent 3379.

T. 6 S., R. 56 E.,

Secs. 2-11, incl.; 14-23, incl.; 26-35, incl.

T. 7 S., R. 56 E.,

Secs. 2-11, incl.; 14-23, incl.; 26-35, incl.

The area described above aggregates approximately 89,000 acres in Lincoln County.

A copy of the legal description and the map depicting the involved lands are on file for public inspection in the following offices:

Director (322), Bureau of Land Management, Room 3643, Interior Bldg., 18th and C Streets, NW., Washington, DC 20240.
 State Director, Bureau of Land Management, Nevada State Office, P.O. Box 12000, 850 Harvard Way, Reno, Nevada 89520.
 Bureau of Land Management, Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126.
 Director, U.S. Fish and Wildlife Service, Room 3256, Interior Bldg., 18th and C Streets, NW., Washington, DC 20240.
 Director, U.S. Fish and Wildlife Service, Lloyd 500 Bldg., Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.
 Commander, Nellis Air Force Base, Las Vegas, Nevada 89191.
 Office of the Secretary, Department of Defense, The Pentagon, Washington, DC 20301-1000.
 Edward F. Spang,
State Director, Nevada.
 [FR Doc. 88-22253 Filed 9-28-88; 8:45 am]
 BILLING CODE 4310-HC-M

[OR-943-08-4220-11; GP-08-264; Wash-05490]

Proposed Continuation of Withdrawal; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that an existing land withdrawal continue for 20 years and requests that the land involved remain closed to surface entry and mining.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that the withdrawal made by Public Land Order No. 4142 continue for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land involved is located in the Wenatchee National Forest and contains 110 acres in T. 29 N., R. 21 E., W.M., Chelan County, Washington.

The purpose of the withdrawal is to protect the Chief Joseph Dam Project. The withdrawal currently segregates the land from operation of the public land laws generally, including the mining

laws. The Bureau of Reclamation requests no changes in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: September 22, 1988.

B. LaVelle Black,
Chief, Branch of Lands and Minerals Operations,
 [FR Doc. 88-22302 Filed 9-28-88; 8:45 am]
 BILLING CODE 4310-33-M

Minerals Management Service

Outer Continental Shelf Advisory Board, Gulf of Mexico Regional Technical Working Group; Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Gulf of Mexico Regional Technical Working Group (RTWG) meeting.

SUMMARY: Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463). The Gulf of Mexico RTWG meeting will be held October 24, 1988, 1:00 p.m. to 5:30 p.m. at the Doubletree Hotel, Crescent Room, 300 Canal Street, New Orleans, Louisiana.

The RTWG business meeting will be held in conjunction with the Information Transfer Meeting. Agenda items for the business meeting include:

Gulf of Mexico Current Activities
 Prioritization of Species of Concern for
 Dispersant Bioassays

FOR FURTHER INFORMATION: This meeting is open to the public. Individuals wishing to make oral presentations to the Committee concerning agenda items should contact Eileen P. Angelico of the Gulf of Mexico

OCS Regional Office at (504) 736-2959 by October 19, 1988. Written statements should be submitted by the same date to the Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123. A taped cassette transcript and complete summary minutes of the Business Meeting will be available for public inspection in the Office of the Regional Director at the above address not later than 60 days after the meeting.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities. The RTWG membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, the environmental community, and other private interests.

Dated: September 20, 1988.

J. Rogers Pearcy,
Regional Director, Gulf of Mexico OCS Region.
 [FR Doc. 88-22269 Filed 9-28-88; 8:45 am]
 BILLING CODE 4310-MR-M

Development Operations Coordination Document; ARCO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5359, Block 60, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on September 16, 1988. Comments must be received within 15 days of the publication date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals

Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Joseph; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: September 19, 1988.

J. Rogers Pearcy,
Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-22268 Filed 9-28-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Brooklyn Union Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Brooklyn Union Exploration Company, Inc. has submitted a DOCD describing the activities it proposed to conduct on Lease OCS-G 5408, Block 95, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 20, 1988. Comments must be received within 15 days of the publication date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Joseph; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested

parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: September 30, 1988.

J. Rogers Pearcy,
Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-22254 Filed 9-28-88; 8:45am]

BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, Room 1100 B, SA-14, Washington, DC 20523-1407.

Date Submitted: September 19, 1988.

Submitting Agency: Agency for International Development.

OMB Number: 0412-0517.

Form Number: None.

Type of Submission: Reinstatement.

Title: A.I.D. Regulation 10—Donation of Dairy Products to Assist Needy Persons Overseas (Section 416 Program).

Purpose: Under section 416 of the Agricultural Act of 1949, as amended, A.I.D. is to carry out the responsibilities for selecting, approving, administering and implementing the temporary program of the donation of surplus dairy products. The section 416 program will be carried out through public, nonprofit, private, humanitarian organizations such as U.S. nonprofit voluntary agencies, cooperatives or intergovernmental organizations and foreign governments, known as cooperating sponsors. The cooperating sponsor wishing to participate in a section 416(b) program must submit to A.I.D. a progress report every six months and final report upon completion of the program. This report to include information on the distribution of the commodities involved, management of

the program and program accomplishments.

Reviewer: Francine Picoult (202) 395-7340, OIRA, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Date: September 19, 1988.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 88-22265 Filed 9-28-88; 8:45 am]

BILLING CODE 6116-01-M

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, Room 1100B, SA-14, Washington, DC 20523.

Date Submitted: September 16, 1988.

Submitting Agency: Agency for International Development.

OMB Number: None.

Form Number: None.

Type of Submission: New Collection.

Title: A.I.D. Regulation 11—Transfer of Food Commodities for Use in Disaster Relief, Economic Development and Other Assistance.

Purpose: The Pub. L. 480, Title II program is carried out through public, nonproject private humanitarian organizations such as U.S. nonprofit voluntary agencies, cooperatives or intergovernmental organizations and foreign governments, known as cooperating sponsors. Cooperating sponsors wishing to participate in a Pub. L. 480, Title II program must sign an agreement with A.I.D. that they will (1) comply with the terms and conditions of A.I.D. Regulation 11, and (2) Submit to A.I.D. a program plan of operation outlining the program including how the program will be implemented/ administered and expected achievements. Upon approval of the program, cooperating sponsors must provide to A.I.D. annual progress report and final report upon completion of the program. The report is to include information on the distribution of the program and program accomplishments. The report must also include an accountability of local currency derived

from the sale of U.S. donated agricultural commodities.

Reviewer: Francine Picoult (202) 395-7340, OIRA, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Date: September 19, 1988.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 88-22266 Filed 9-28-88; 8:45 am]

BILLING CODE 6116-01-M

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John M. Elgin, (703) 875-1608, IRM/PE, Room 1100 B, SA-14, Washington, DC 20523-1407.

Date Submitted: September 20, 1988.

Submitting Agency: Agency for International Development.

OMB Number: 0412-0012.

Form Number: AID 282.

Type of Submission: Revision.

Title: Supplier's Certificate and Agreement with the Agency for International Development—Invoice and Contract Abstract.

Purpose: A.I.D. finances goods and related services under its Commodity Import Programs (CIPs) which are contracted for by public and private entities in the countries receiving the A.I.D. assistance. Since A.I.D. is not a party to these contracts, A.I.D. needs some means to collect information directly from the suppliers of the goods and related services and enable A.I.D. to take appropriate action against them in the event they do not comply with the applicable regulations. A.I.D. does this by securing from the suppliers, as a condition for the disbursement of funds, a certificate and agreement with A.I.D. which contains appropriate representations by the supplier. The respondents are expected to have an average of four responses per year and an estimated records keeping burden of one half hour.

Reviewer: Francine Picoult, (202) 395-7340, OIRA, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Date: September 20, 1988.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 88-22275 Filed 9-28-88; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-285]

Certain Chemiluminescent Compositions and Components Thereof And Methods of Using The Same

Notice is hereby given that the preliminary conference in this matter is presently scheduled to commence 2:30 p.m., on October 4, 1988 in Hearing Room B (Room 111) at the International Trade Commission Building at 500 E Street SW., Washington, DC. The date is subject to change through order of the administrative law judge; non-parties wishing to attend should contact Mr. McKie at 202-252-1701 as to whether there have been any changes made in this schedule by the judge.

The Secretary shall publish this notice in the *Federal Register*.

Paul J. Luckern,

Administrative Law Judge.

Issued: September 19, 1988.

[FR Doc. 88-22299 Filed 9-28-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-242]

Certain Dynamic Random Access Memories, Components and Products Containing Same

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued an order dismissing as moot that part of the complaint relating to U.S. Letters Patent 3,541,543 in the above-captioned investigation.

ADDRESS: Copies of the aforementioned order and all other nonconfidential documents on the record of the investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Michael J. Buchenhorner, Esq., Office of

the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1097. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202-252-1810.

SUPPLEMENTARY INFORMATION: At the conclusion of the above-captioned investigation the Commission determined that there was no violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) with respect to imported dynamic random access memories (DRAMs) accused of infringing the '543 patent. The Commission determined that the '543 patent was unenforceable due to inequitable conduct before the U.S. Patent and Trademark Office and that claims 10, 13, 18, and 25 of the '543 patent were invalid under 35 U.S.C. 102 and 103 and not infringed by the accused DRAMs. Complainant Texas Instruments, Inc. appealed the Commission's determination on enforceability of the '543 patent to the U.S. Court of Appeals for the Federal Circuit (CAFC).

While the appeal was pending, the '543 patent expired and the Commission moved to dismiss as moot that part of the appeal relating to that patent. That motion resulted in the Order of the CAFC of July 6, 1988, vacating the part of the Commission's determination relating to the '543 patent and remanding the investigation to the Commission with directions to dismiss the corresponding part of the complaint. *Texas Instruments Incorporated v. U.S. International Trade Commission*, Appeal No. 87-1627 (Fed. Cir., July 6, 1988).

By order of the Commission.
Kenneth R. Mason,
Secretary.

Issued: September 20, 1988.
[FR Doc. 88-22298 Filed 9-28-88; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-267]

Certain Minoxidil Powder, Salts and Compositions For Use in Hair Treatment

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a general exclusion order under 19 U.S.C. 1337(d) to prevent the unauthorized importation into the United States of minoxidil in

any form, including powder, salts and compositions thereof, which directly, contributorily, or by inducement infringes claims 1, 2, 3, 4, 5, 6, 7, 8 or 9 of U.S. Letters Patent 4,139,619 and/or claims 1, 8, 9, 11, 13, or 14 of U.S. Letters Patent 4,596,812. The Order is subject to certain certification provisions.

ADDRESS: Copies of the general exclusion order, the Commission Opinion relating thereto, and all other nonconfidential documents on the record of the above-captioned investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1092. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On February 16, 1988, the presiding administrative law judge (ALJ) issued her final initial determination (ID) finding a violation of section 337 in this investigation. The Commission investigative attorney (IA) petitioned for review. On April 4, 1988, the Commission determined to review the ID on issues of domestic industry, prevention of establishment, and tendency to substantially injure the domestic industry. The Commission solicited written submissions from the parties to the investigation, other Federal agencies, and interested members of the public on the issues on review and on the questions of remedy, the public interest, and bonding. The only submissions the Commission received were those filed by complainant The Upjohn Company (Upjohn), the IA, and the Food and Drug Administration (FDA).

On May 13, 1988, the Commission determined to suspend the investigation for 30 days. On June 24, 1988, the Commission determined to continue the suspension for another 30 days. On July 11, 1988, the Commission determined to suspend the investigation until 30 days after final action by the FDA on Upjohn's new drug application (NDA) on the topical minoxidil compositions (ROGAINE), which are the subject of this investigation. On August 17, 1988, the FDA granted final approval for

ROGAINE. On August 23, 1988, section 337 was amended by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107) to eliminate the injury requirement and to broaden the criteria for the industry requirement in patent-based cases. On August 9 and 19, 1988, Upjohn filed motions requesting resumption of the investigation for both of these reasons. The IA supported both motions.

After considering the submissions and examining the record developed during the investigation, the Commission determined that the investigation should be resumed, that there was a violation of section 337, and that the appropriate remedy for the violation of section 337 is a general exclusion order prohibiting the importation of infringing minoxidil compositions for the remaining terms of the patents, except under license from the patent holder or subject to certification.

The Commission also determined that the public interest considerations listed in subsection (d) of section 337 do not preclude issuance of a general exclusion order and that while the order is under review by the President pursuant to subsection (j) of section 337, the excluded articles will be entitled to enter the United States under a bond in the amount of 500 percent of the articles' entered value.

The authority for the aforesaid Commission determinations and the general exclusion order is contained in 19 U.S.C. 1337, as amended by the Omnibus Trade and Competitiveness Act of 1988, and in interim rules 210.53-58 of the Commission's Rules of Practice and Procedure.

By order of the Commission.
Kenneth R. Mason,
Secretary.

Issued: September 19, 1988.
[FR Doc. 88-22300 Filed 9-28-88; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA 282]

Certain Venetian Blind Components

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 8) issued by the presiding administrative law judge (ALJ) granting in part complainant Hunter Douglas, Inc.'s motion to add respondents. The ID

amends the complaint and notice of investigation by adding as respondents the following: Feng Gang Industrial Co. Ltd. of Taoyuan Hsien, Taiwan; Hud Te Industrial Co., Ltd. of Taipei Hsien, Taiwan; Panwood International Corp. of Taipei, Taiwan; and Panwood Company, Ltd. of Taipei, Taiwan.

ADDRESS: Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Andrea C. Casson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street NW., Washington, DC 20436, telephone 202-252-1105.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On August 24, 1988, the presiding ALJ issued an ID amending the complaint and notice of investigation to add the above four firms as respondents. No petitions for review of the ID or government agency comments were received. This action is taken under the authority of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53(h).

By order of the Commission.

Kenneth R. Mason,
Secretary.

Issued: September 20, 1988.

[FR Doc. 88-22297 Filed 9-28-88; 8:45 am]

BILLING CODE 7020-02-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in the New Hampshire Room of the Boston Marriott Copley Place, 110 Huntington Avenue, Boston, Massachusetts, on October 26, 1988, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on Future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the subject of the meeting falls within the exceptions to the open meeting requirements set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Leslie S. Shapiro,

*Advisory Committee Management Officer,
Joint Board for the Enrollment of Actuaries.*

Date: September 22, 1988.

[FR Doc. 88-22372 Filed 9-28-88; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; AC Spark Plug, et al.

Petitions have been filed with the

Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 11, 1988.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 11, 1988.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 19th day of September 1988.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
AC Spark Plug (UAW)	Wichita Falls, TX	9/19/88	8/22/88	20,978	Turbine fuel pumps.
Amerada Hess Corp./Offshore (workers)	Houston, TX	9/19/88	9/5/88	20,979	Oil and Gas.
Atlas Wireline Service (workers)	Alice, TX	9/19/88	9/9/88	20,980	Oil and Gas.
Atlas Wireline McCullough (workers)	Alice, TX	9/19/88	9/9/88	20,981	Oil and Gas.
Atlas Wireline Services (workers)	Laredo, TX	9/19/88	8/29/88	20,982	Oil and Gas.
Atlas Wireline McCullough (workers)	Laredo, TX	9/19/88	8/29/88	20,983	Oil and Gas.
BethEnergy, Mines, Inc. (UMWA) Mine #84	Ellsworth, PA	9/19/88	9/2/88	20,984	Metallurgical coal.
Black, Sivals & Bryson, Inc. (workers)	Houston, TX	9/19/88	9/8/88	20,985	Oil and Gas.
C.J. Penn Truck Service, Inc. (company)	Midkiff, TX	9/19/88	9/8/88	20,986	Oil and Gas.
Cherokee Drilling & Development Corp. (company)	Midland, TX	9/19/88	9/7/88	20,987	Oil and Gas.
Christeve Oil Co., Inc. (company)	Houston, TX	9/19/88	9/1/88	20,988	Oil and Gas.
Clovie Riley Inc. (workers)	Pearsall, TX	9/19/88	8/10/88	20,989	Oil and Gas.
DA&S Oil Well Servicing, Inc. (company)	Hobbs, NM	9/19/88	9/8/88	20,990	Oil and Gas.
D.B. Drilling Co. (workers)	Abilene, TX	9/19/88	9/7/88	20,991	Oil and Gas.
Dawson Operating Co. (workers)	Amarillo, TX	9/19/88	9/1/88	20,992	Oil and Gas.
DynMac Corp. (workers)	Tulsa, OK	9/19/88	9/9/88	20,993	Pumping equipment.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Eagle Oil & Gas Co. (company)	Wichita Falls, TX	9/19/88	9/9/88	20,994	Oil and Gas.
Eastman Whipstock Manufacturing (workers)	Abilene, TX	9/19/88	9/6/88	20,995	Downhole survey instruments.
Eastman Whipstock Manufacturing (workers)	Abilene, TX	9/19/88	9/6/88	20,996	Downhole survey instruments.
Enpex Corp. (workers)	San Diego, CA	9/19/88	9/7/88	20,997	Oil and Gas.
Enpex Corp. (workers)	La Pryor, TX	9/19/88	9/7/88	20,998	Oil and Gas.
Falcon Refinery (workers)	Ingleside, TX	9/19/88	8/31/88	20,999	Diesel fuel, kerosene and bunker fuels.
Felderhoff Bros. Drilling Co. (workers)	Gainesville, TX	9/19/88	9/2/88	21,000	Oil and Gas.
Felderhoff Production Co. (workers)	Gainesville, TX	9/19/88	9/2/88	21,001	Oil and Gas.
G&A Style, Inc. (ILGWU)	Newark, NJ	9/19/88	9/8/88	21,002	Ladies' pants and skirts.
G&G Tank Rental & Sales Inc. (workers)	Freer, TX	9/19/88	9/7/88	21,003	Oil and Gas.
General Cable Co., Fiber Optics Division (IUE)	North Adams, MA	9/19/88	9/6/88	21,004	Fiber optics cable.
General Well Service (workers)	Roosevelt, UT	9/19/88	9/6/88	21,005	Oil and Gas.
Harmony Drilling (workers)	Big Springs, TX	9/19/88	9/3/88	21,006	Oil and Gas.
Jackets by Tommy, Inc. (ILGWU)	East Newark, NJ	9/12/88	8/30/88	21,007	Sports jackets.
Johns Roustabout Service (company)	Lamesa, TX	9/19/88	9/2/88	21,008	Oil and Gas.
Johnson Control, Inc. Battery Division (AIW, #322)	Milwaukee, WI	9/19/88	9/7/88	21,009	Specialty batteries.
KW Well Service, Inc. (company)	Abilene, TX	9/19/88	9/7/88	21,010	Oil and Gas.
Klaus & Son Machine & Engine Works (workers)	Hill City, KS	9/19/88	9/5/88	21,011	Oil and Gas.
Lugo Welding Service (workers)	Laredo, TX	9/19/88	8/30/88	21,012	Oil and Gas.
Mark E. Hennes, Inc. (SEIF)	Garland, TX	9/19/88	9/2/88	21,013	Oil and Gas.
Mineral Search, Inc. (workers)	Houston, TX	9/19/88	8/29/88	21,014	Oil and Gas.
Molen Drilling Co., Inc. (workers)	Billings, MT	9/19/88	9/6/88	21,015	Oil and Gas.
Monroe Well Service, Inc. (workers)	Tullos, LA	9/19/88	9/9/88	21,016	Oil and Gas.
Montgomery Exploration Co., Ltd. (company)	Dallas, TX	9/19/88	9/1/88	21,017	Oil and Gas.
Mulberry Circle Fashions (ILGWU)	Perth Amboy, NJ	9/19/88	9/1/88	21,018	Sportswear.
Norton Drilling Co. (company)	Lubbock, TX	9/19/88	9/9/88	21,019	Oil and Gas.
Norton Drilling Co. (company)	Rock Springs, WY	9/19/88	9/9/88	21,020	Oil and Gas.
OSCA Inc. (company)	Houston, TX	9/19/88	9/8/88	21,021	Oil and Gas.
OSCA Inc. (company)	Lafayette, LA	9/19/88	9/8/88	21,022	Oil and Gas.
O'Bryon Bros, Inc. (workers)	Nashville, TN	9/19/88	9/7/88	21,023	Overalls and men's cotton pants.
Petro-Core Service, Co. (workers)	Sugar Land, TX	9/19/88	9/6/88	21,024	Plug analysis-determine potential well productivity.
Petrolero Corp. (company)	San Antonio, TX	9/19/88	8/31/88	21,025	Oil and Gas.
Petroleum Inc. (workers)	Oklahoma City, OK	9/19/88	9/6/88	21,026	Oil and Gas.
Petroleum Inc. (workers)	Norman, OK	9/19/88	9/6/88	21,027	Oil and Gas.
Red Tiger Drilling, Rig #9 (workers)	Wichita, KS	9/19/88	9/8/88	21,028	Crude oil.
Schlumberger Well Service (workers)	Corpus Christi, TX	9/19/88	8/30/88	21,029	Oil and Gas.
South Texas Drilling Exploration, Inc. (workers)	San Antonio, TX	9/19/88	9/6/88	21,030	Oil and Gas.
Stahl Petroleum Co. (workers)	Amarillo, TX	9/19/88	9/6/88	21,031	Oil and Gas.
Stahl Drilling Co. (workers)	Amarillo, TX	9/19/88	9/6/88	21,032	Oil and Gas.
Texo Oil Co. (company)	Wichita Falls, TX	9/19/88	9/6/88	21,033	Oil and Gas.
(The) Permian Corp. (workers)	Hays, KS	9/19/88	9/6/88	21,034	Oil and Gas.
(The) Western Co. of North America (workers)	Laredo, TX	9/19/88	8/29/88	21,035	Oil and Gas.
Town & Country Shoes (company)	Sedalia, MO	9/19/88	9/6/88	21,036	Women's shoes.
Ultramar Oil & Gas Limited (company)	Houston, TX	9/19/88	9/6/88	21,037	Oil and Gas.
Ultramar Oil & Gas Limited (company)	Midland, TX	9/19/88	9/6/88	21,038	Oil and Gas.
Ultramar Oil & Gas Limited (company)	Denver, CO	9/19/88	9/6/88	21,039	Oil and Gas.
WellPro, Inc. (workers)	Williston, ND	9/19/88	9/3/88	21,040	Oil and Gas.
Wessely Energy Co. (workers)	Dallas, TX	9/19/88	9/2/88	21,041	Oil and Gas.
Wessely Energy Co. (workers)	Denver, CO	9/19/88	9/2/88	21,042	Oil and Gas.
Wiser Oil Co. (workers)	Leeco, KY	9/19/88	9/7/88	21,043	Oil and Gas.
Woods Petroleum Corp. (workers)	Denver, CO	9/19/88	9/9/88	21,044	Oil and Gas.
Woods Petroleum Corp. (workers)	Oklahoma City, OK	9/19/88	9/9/88	21,045	Oil and Gas.

[FR DOC. 88-22312 Filed 9-28-88; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration**Employee Benefits Plans; Thrift Savings Fund Participants****AGENCY:** Pension and Welfare Benefits Administration, Department of Labor.**ACTION:** Notice of proposed adoption of class exemptions.**SUMMARY:** This document contains a proposal to adopt, for purposes of the

prohibited transaction provisions of section 8477(c)(2) of the Federal Employees' Retirement System Act of 1986 (FERSA or the Act), certain prohibited transaction class exemptions granted pursuant to section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA). If adopted under FERSA pursuant to the proposal set forth herein, the class exemptions would permit fiduciaries with respect to the Thrift Savings Fund (the Fund), a fund established pursuant to provisions of FERSA, to engage in certain transactions described in the exemptions, provided that the

conditions of the exemptions are satisfied.

DATES: Written comments or requests for a hearing must be received by the Department of Labor (the Department) on or before October 31, 1988. The class exemptions, if adopted for purposes of FERSA, would apply to transactions occurring on or after January 1, 1988.

ADDRESSES: Written comments and requests for a hearing should be submitted to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N-5671, U.S. Department of Labor, 200 Constitution Avenue NW., Washington,

DC 20210. Attention: FERSA Class Exemptions. All submissions will be available for public inspection in the Public Documents Room, Pension and Welfare Benefits Administration, Room N-5507, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Katherine D. Lewis, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, (202) 523-7901 (not a toll free number), or Daniel J. Maguire, Esq., Plan Benefits Security Division, Office of the Solicitor, Washington, DC 20210, (202) 523-9596 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department is considering the adoption, for purposes of the prohibited transaction provisions of section 8477(c)(2) of FERSA,¹ of certain prohibited transaction class exemptions granted pursuant to section 408(a) of ERISA. The class exemptions would be adopted pursuant to the authority of the Secretary established in section 8477(c)(3) of FERSA. Subparagraph (E) of section 8477(c)(3) provides that the Secretary may adopt exemptions granted for any class of fiduciaries or transactions under section 408(a) of ERISA for purposes of section 8477(c)(2) of FERSA, upon publication of notice in the *Federal Register*.² The class exemptions would be adopted only to the extent that they provide exemptive relief from the restrictions of section 406(b) of ERISA, which are parallel to those of section 8477(c)(2) of FERSA. The Department is proposing the adoption on its own motion in accordance with the procedures set forth in section 3.01 of ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

A. Background Information

Subchapter III of FERSA established a new retirement savings plan for federal employees to be known as the Thrift Savings Plan. As provided at section 8437 of FERSA, the Thrift Savings Plan is funded by the Thrift Savings Fund (the Fund), which consists of all

employee and government contributions, increased by the total net earnings of the Fund or reduced by the total net losses of the Fund, and reduced by the total amount of payments made from the Fund. The Fund is administered and managed by the Federal Retirement Thrift Investment Board (the Board) and its Executive Director.

Contributions to the Fund are invested in one or more of three separate investment funds established pursuant to section 8438(b) of FERSA, which together comprise the Fund. These include a common stock index investment fund (the Common Stock Index Fund), a fixed income investment fund (the Fixed Income Fund) and a government securities investment fund (the Government Securities Fund). Prior to January 1, 1988, all assets of the Fund were required by section 8438(e)(1) of FERSA to be invested in the Government Securities Fund. Pursuant to section 8438(b)(1)(A) of FERSA, the Government Securities Fund invests in special securities issued by the Secretary of the Treasury for this purpose.

Since January 1, 1988, many participants in the Fund have been able to direct a portion of their prospective contributions under the Plan to the Common Stock Index Fund and the Fixed Income Fund. Pursuant to section 8438(b) of FERSA, assets of the Common Stock Index Fund are invested in a portfolio designed to replicate the performance of an index fund selected by the Board, while assets of the Fixed Income Fund are invested in insurance contracts, certificates of deposit or other instruments or obligations selected by qualified professional asset managers.³

³ The definition of a qualified professional asset manager is found at section 8438(a)(7) of FERSA. In general, this section defines a qualified professional asset manager as (i) a bank which has the power to manage, acquire or dispose of the assets of a plan, and has, as of the last day of its latest fiscal year, equity capital in excess of \$1,000,000; (ii) a savings and loan association, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, which has applied for and been granted trust powers to manage, acquire or dispose of assets of a plan by a State or Government authority having supervision over savings and loan associations, and has, as of the last day of its latest fiscal year, equity capital or net worth in excess of \$1,000,000; (iii) an insurance company which is qualified under the laws of more than one state to manage, acquire, or dispose of any assets of a plan, has net worth in excess of \$1,000,000, and is subject to supervision and examination by a State authority having supervision over insurance companies; or (iv) an investment advisor that is registered under the Investment Advisors Act of 1940 (15 U.S.C. 80b-3) and that also meets certain other requirements set forth in section 8438(a)(7)(D) of FERSA.

which return the amount invested and pay interest at a specified rate or rates on that amount over a specified period of time.

Section 8472(f) of FERSA charges the Board with responsibility for, among other things, establishing policies for the investment and management of the Fund and the administration of Subchapter III of FERSA. Section 8474(b) of FERSA directs the Board's Executive Director to implement the Board's policies and to invest and manage Fund assets in accordance with those policies and the provisions of the Act. Pursuant to section 8474(c) of FERSA, the Executive Director is authorized to appoint personnel and, subject to the approval of the Board, to procure the services of experts and consultants to assist the Executive Director in carrying out his or her duties.

Section 8477(a)(3) of FERSA defines as a fiduciary, with respect to the Fund, any person who is (i) a member of the Board; (ii) its Executive Director; (iii) who has or exercises discretionary authority or control over the management or disposition of the assets of the Fund; or (iv) who, with respect to the Fund, is described in section 3(21)(A) of ERISA. Section 3(21)(A) of ERISA states generally that a person is a fiduciary with respect to a plan to the extent that he or she exercises any discretionary authority or discretionary control respecting management of the plan or exercises any authority or control respecting management or disposition of its assets, renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of the plan, or has any authority or responsibility to do so, or has any discretionary authority or responsibility in the administration of the plan.

Fiduciaries with respect to the Fund are subject to the fiduciary standards and prohibited transaction rules of FERSA. FERSA established fiduciary standards, prohibited transaction rules and provisions for exemptive relief that are similar to and derived from provisions applicable to private employee benefit plans under ERISA.

The basic fiduciary standards of FERSA are described in section 8477(b)(1), which was derived from section 404(a)(1) of ERISA. Those standards require Fund fiduciaries to discharge their duties with respect to the Fund (or the applicable portion thereof), to the extent not inconsistent with FERSA and the policies prescribed by the Board, solely in the interest of the participants and beneficiaries of the Fund; for the exclusive purpose of

¹ Sections 8401 through 8479 of Title 5, United States Code [U.S.C.], were enacted by Congress at section 101(a) of FERSA. The Act itself provides no independent numbering system for these provisions, but directly assigns the chapter and section numbers under which those provisions are to be codified in Title 5 of the U.S.C. For purposes of clarity and convenience, the provisions of FERSA are referenced herein by using the U.S.C. section numbers which Congress assigned to them in the Act. Thus, for example, a reference to "section 8477(c)(2) of FERSA" is to Title 5 U.S.C. 8477(c)(2).

² Section 8477(c)(3)(E) of FERSA was added to section 8477(c)(3) of FERSA by section 112 of the FERSA Technical Corrections Act of 1986 (FERSTCA, Pub. L. 99-556, October 27, 1986).

providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the Fund; with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like objectives; and, to the extent permitted by section 8438 of FERSA (relating to investment of the Fund), by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

The prohibited transaction provisions of FERSA are set forth in FERSA section 8477(c)(1) and 8477(c)(2). Section 8477(c)(1) of FERSA, which is similar in many respects to section 406(a) of ERISA, prohibits Fund fiduciaries from permitting the Fund to engage in certain transactions between the Fund and a "party in interest" (as defined in section 8477(a)(4) of FERSA) with respect to the Fund, except in exchange for adequate consideration. These transactions include the transfer of any assets of the Fund to any person the fiduciary knows or should know to be a party in interest with respect to the Fund or the use of such assets by any such person; the acquisition of any property from or the sale of any property to the Fund by any person the fiduciary knows or should know to be a party in interest; and the transfer or exchange of services between the Fund and any person the fiduciary knows or should know to be a party in interest. Section 8477(c)(1) of FERSA differs from section 406(a) of ERISA primarily in that the prohibitions of section 8477(c)(1) of FERSA apply only if adequate consideration (as defined in section 8477(a)(2) of FERSA) is not received, whereas the prohibitions of section 406(a) apply regardless of whether adequate consideration is received. In addition, FERSA contains no provision for administrative exemptions from the prohibitions of section 8477(c)(1).

Administrative exemptions may be granted, however, from the prohibitions of section 8477(c)(2) of FERSA, which parallel those of section 406(b) of ERISA. Section 8477(c)(2) of FERSA provides that, notwithstanding section 8477(c)(1), a fiduciary with respect to the Fund shall not deal with any assets of the Fund in his own interest or for his own account; act, in an individual or any other capacity, in any transaction involving the Fund on behalf of a party, or representing a party, whose interests are adverse to the interests of the Fund

or the interests of its participants or beneficiaries; or receive any consideration for his own personal account from any party dealing with sums credited to the Fund in connection with a transaction involving assets of the Fund.

Section 8477(c)(3)(A) of FERSA provides that the Secretary may, in accordance with procedures which the Secretary shall by regulation prescribe, grant a conditional or unconditional exemption from all or part of the restrictions imposed by section 8477(c)(2) of FERSA.⁴ Section 8477(c)(3)(C) provides that an exemption may not be granted unless the Secretary finds that the exemption is administratively feasible, in the interests of the Fund and its participants and beneficiaries, and protective of the rights of the participants and beneficiaries of the Fund. Section 8477(c)(3)(D) requires publication of a notice of proposed exemption in the *Federal Register*, opportunity for interested persons to comment and opportunity for a hearing. Section 8477(c)(3)(D) also requires that the Secretary make a determination on the record with regard to the findings required by section 8477(c)(3)(C). However, section 8477(c)(3)(E) of FERSA provides that, notwithstanding subparagraph (D), the Secretary may determine that an exemption granted for any class of fiduciaries or transactions under section 408(a) of ERISA shall, upon publication of notice in the *Federal Register*, constitute an exemption for purposes of section 8477(c)(2) of FERSA.

Since the enactment of ERISA, the Department has granted a number of class exemptions providing conditional relief from some or all of the prohibitions of section 406(b) of ERISA.⁵

⁴ Proposed regulations prescribing exemption procedures for purposes of both section 406(a) of ERISA and section 8477(c)(3) of FERSA were published in the *Federal Register* on June 28, 1988 (53 FR 24422). However, section 111 of FERSTCA authorizes the Secretary of Labor to grant exemptions under FERSA section 8477(c)(3) pursuant to the procedures currently applicable to exemption applications under ERISA section 408(a) until the earlier of December 31, 1988, or the date of publication of final regulations adopting a procedure for such exemption applications. The procedures currently applicable to exemptions under section 408(a) of ERISA are set forth in ERISA Procedure 75-1. Section 3.01 of ERISA Procedure 75-1 provides that the Secretary may initiate an exemption proceeding on his or her own motion.

⁵ While certain of these class exemptions also provide relief from the prohibitions of sections 406(a) and 407(a) of ERISA, they are discussed herein only insofar as they relate to section 406(b) of ERISA.

These exemptions were granted pursuant to the provisions of section 408(a) of ERISA and the procedures set forth in ERISA Procedure 75-1. Among other things, this required a finding on the record by the Secretary that each of the exemptions was administratively feasible, in the interests of plan participants and beneficiaries, and protective of the rights of plan participants and beneficiaries. Notice of the pendency of each exemption was published in the *Federal Register* and interested persons were afforded the opportunity to present their views and, where appropriate, to request a hearing.

Many of the class exemptions were developed to permit fiduciaries to manage plan assets in a manner conforming with customary practices in the financial industry and to permit plans to achieve better investment results or to operate at a lower cost than would have been possible in the absence of such exemptions.

B. Proposed Adoption of Certain Class Exemptions

Pursuant to the authority set forth in section 8477(c)(3) of FERSA and in accordance with the procedures set forth in ERISA Procedure 75-1, the Department is considering the adoption of certain of the class exemptions granted under ERISA for purposes of the prohibitions of section 8477(c)(2) of FERSA. In this connection, the Department proposes to adopt the following class exemptions (collectively, the Class Exemptions) for purposes of section 8477(c)(2) of FERSA or the relevant subsections thereunder:⁶ Prohibited Transaction Exemption (PTE) 75-1 (40 FR 50845, October 31, 1975), exempting certain classes of transactions involving employee benefit plans and certain broker-dealers, reporting dealers and banks; PTE 78-19 (43 FR 59915, December 22, 1978), exempting certain transactions involving insurance company pooled separate accounts; PTE 80-26 (45 FR 28545, April 29, 1980), exempting certain interest free loans to employee benefit plans; PTE-

⁶ Section 8477(c)(2)(A) of FERSA prohibits a fiduciary with respect to the Fund from dealing with assets of the Fund in his own interest or for his own account. Section 8477(c)(2)(B) prohibits fiduciaries with respect to the Fund from acting, in an individual or any other capacity, in any transaction involving the Fund on behalf of a party, or representing a party, whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries. Section 8477(c)(2)(C) prohibits a fiduciary with respect to the Fund from receiving any consideration for his or her own personal account from any party dealing with sums credited to the Fund in connection with a transaction involving the assets of the Fund.

80-51 (45 FR 49709, July 25, 1980), exempting certain transactions involving bank collective investment funds; PTE 82-63 (47 FR 14804, April 6, 1982), exempting certain payments of compensation to plan fiduciaries for the provision of securities lending services; and PTE 86-128 (51 FR 41686, November 18, 1986), exempting certain securities transactions involving employee benefit plans and broker-dealers.⁷

PTE 75-1, if adopted, would provide conditional relief from the prohibitions of section 8477(c)(2) of FERSA with regard to the following transactions: (a) The purchase or sale of shares of open-end investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) between the Fund and certain broker-dealers, reporting dealers or banks that are fiduciaries with respect to the Fund; (b) the purchase of securities during the existence of an underwriting or selling syndicate with regard to such securities when a fiduciary or affiliate of a fiduciary is a member of the syndicate, so long as no fiduciary who is involved in any way with causing the plan to make the purchase is a member of the syndicate; (c) the purchase or sale of securities by the Fund to or from a fiduciary that regularly maintains a market with respect to such securities; and (d) the extension of credit to the Fund by a registered broker or dealer that is a fiduciary with respect to the Fund where no interest or other consideration is received by the fiduciary or any of its affiliates in connection with the extension of credit.⁸

PTE 78-19, if adopted, would provide conditional relief from the prohibitions of FERSA section 8477(c)(2)(A) and (B) with regard to insurance company pooled separate accounts in which the Fund invests for, among other things, certain transactions with persons who are parties in interest with respect to the Fund solely by virtue of being service

providers with respect to the Fund or affiliates of such service providers.⁹

PTE 80-26, if adopted, would provide conditional relief from the prohibition of FERSA section 8477(c)(2)(B) to permit certain interest free loans to the Fund. No relief would be provided by this exemption from the prohibitions of FERSA section 8477(c)(2)(A) or (C).

PTE 80-51, if adopted, would provide conditional relief from the prohibitions of section 8477(c)(2)(A) and (B) with regard to bank collective investment funds in which the Fund invests for, among other things, certain transactions with persons who are parties in interest with respect to the Fund solely by virtue of being certain service providers or certain affiliates of service providers.

PTE 82-63, if adopted, would provide conditional relief from the prohibition of FERSA section 8477(c)(2)(A) for the payment to a fiduciary with respect to the Fund of compensation for certain services rendered in connection with loans of Fund assets that are securities. No relief would be provided by this exemption from the prohibitions of FERSA section 8477(c)(2)(B) or (C).

PTE 86-128, if adopted, would provide conditional relief from the prohibitions of section 8477(c)(2) of FERSA, for: (a) The use by a fiduciary with respect to the Fund of its authority to cause the Fund to pay a fee to the fiduciary for effecting or executing securities transactions, but only to the extent that such transactions are not excessive, under the circumstances, in either amount or frequency; (b) a Fund fiduciary's acting as the agent in an agency cross transaction for both the Fund and one or more other parties to the transaction; or (c) the receipt by a fiduciary with respect to the Fund of reasonable compensation for effecting or executing an agency cross transaction to which the Fund is a party, from one or more other parties to the transaction.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the disclosure provisions that would be extended as a result of the proposed adoption of the class exemptions for

purposes of FERSA have been submitted to the Office of Management and Budget.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption from the prohibitions of section 8477(c)(2) of FERSA, pursuant to section 8477(c)(3) of FERSA, does not relieve a fiduciary from any other provisions of FERSA, including but not limited to any prohibited transaction provisions to which the exemption does not apply, and the general fiduciary responsibility provisions of section 8477(b) of FERSA. Among other things, this section requires a fiduciary to discharge his duties respecting the Fund solely in the interest of participants and beneficiaries and in a prudent manner in accordance with section 8477(b)(1)(B) of FERSA.

(2) Before an exemption may be granted under section 8477(c)(3) of FERSA, the Department must find that the exemption is administratively feasible, in the interests of the Fund and its participants and beneficiaries and protective of the rights of the participants and beneficiaries of the Fund;

(3) The class exemptions hereby proposed to be adopted would be supplemental to, and not in derogation of, any other provisions of FERSA.

(4) The fact that a transaction is subject to an administrative exemption pursuant to section 8477(c)(3) of FERSA is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) If adopted, an exemption would be applicable to a particular transaction only if the conditions specified in the exemption are satisfied.

(6) The Department's record with respect to each of the Class Exemptions, including, but not limited to, applications for such exemptions, notices of the proposal of the Class Exemptions, public comments received by the Department with respect to such proposals, testimony which was part of any public hearing held with regard to any of the Class Exemptions and notices of the granting of the Class Exemptions, shall, together with any public comments in response to this Notice and any testimony which may be made part of any public hearing held with regard to this Notice, constitute the record for purposes of this proposed adoption of the Class Exemptions.

⁷ Wells Fargo Bank, National Association (Wells Fargo) is currently acting as a qualified professional asset manager pursuant to section 8438 of FERSA with respect to the Fixed Income Fund and the Common Stock Index Fund. In a letter dated February 8, 1988, Wells Fargo requested that the Department exercise its authority under FERSA to apply ERISA Prohibited Transaction Class Exemptions 75-1, 80-26, 80-51, 82-63 and 86-128 to the Thrift Savings Fund.

⁸ Part I of PTE 75-1 provided a temporary exemption, until April 29, 1978, from the prohibitions of section 406(b) of ERISA for certain agency transactions. This temporary exemption was replaced by a permanent exemption, PTE 79-1 (44 FR 5963, January 30, 1979). PTE 79-1 was subsequently replaced by PTE 86-128, discussed below.

⁹ The Department recognizes that certain kinds of transactions exempted from section 406(b) of ERISA by the Class Exemptions may not be relevant with respect to the operation of the Fund. For example, with respect to the operation of the Fund, for example, both PTE 78-19 and 80-51 provide 406(b) relief for certain transactions involving multiple employer plans and for certain investments by plans in employer securities and employer real property. The prohibited transaction provisions of FERSA do not contain specific restrictions on the acquisition and holding of employer securities and employer real property parallel to those of section 407(a) of ERISA.

Proposed Adoption, for Purposes of Section 8477(c)(2) of FERSA, of Certain Prohibited Transaction Exemptions Granted Pursuant to Section 408(a) of ERISA

In accordance with the authority of the Secretary as set forth in section 8477(c)(3) of the Federal Employees' Retirement System Act of 1986 (FERSA) and the procedures set forth in ERISA Procedure 75-1, the Secretary of Labor (the Secretary) hereby proposes to adopt the following class exemptions granted in accordance with section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA) for purposes of the prohibitions of section 8477(c)(2) of FERSA or the relevant subsections thereunder:

(a) Prohibited Transaction Exemption (PTE) 75-1 (40 FR 50845, October 31, 1975);

(b) PTE 78-19 (43 FR 59915, December 22, 1978);

(c) PTE 80-26 (45 FR 28545, April 29, 1980, technically corrected at 45 FR 35040, May 23, 1980);

(d) PTE 80-51 (45 FR 49709, July 25, 1980, technically corrected at 45 FR 52949, August 8, 1980);

(e) PTE 82-63 (47 FR 14804, April 6, 1982, technically corrected at 47 FR 16437, April 16, 1982); and

(f) PTE 86-128 (51 FR 41686, November 18, 1986, amended at 52 FR 8676, March 19, 1987); (collectively, the Class Exemptions).

On April 27, 1987, the Secretary delegated to the Assistant Secretary for Pension and Welfare Benefits the authority to administer section 8477 of FERSA (Secretary's Order 1-87, 52 FR 13139, April 21, 1987).

I. In General

The Class Exemptions, if adopted, would provide conditional relief only from the prohibitions of section 8477(c)(2) of FERSA or the relevant subsections thereunder, and only to the extent that the Class Exemptions provide parallel relief from the prohibitions of section 406(b) of ERISA or subsections thereunder. Reference should be made to explanatory information in each of the notices of the granting of the Class Exemptions under ERISA and to other documents referenced therein for further guidance with respect to matters relating to the Class Exemptions.

II. Specific Terms

For purposes of applying the Class Exemptions to the prohibitions of section 8477(c)(2) of FERSA, (1) any reference in the Class Exemptions to "section 406", "section 406 of the Act",

"section 406(b)" or "section 406(b) of the Act" shall be deemed to apply to section 8477(c)(2) of FERSA. Reference to subsections of section 406(b) of ERISA shall be deemed to apply to the corresponding subsection of section 8477(c)(2) of FERSA. Thus, reference to "section 406(b)(1)" shall mean section 8477(c)(2)(A) of FERSA; reference to "section 406(b)(2)" shall mean section 8477(c)(2)(B) of FERSA; and reference to "section 406(b)(3)" shall mean section 8477(c)(2)(C) of FERSA. (2) The term "fiduciary" as used in the Class Exemptions shall be construed to mean "fiduciary" as defined in section 8477(a)(3) of FERSA. (3) The terms "employee benefit plan(s)" and "plan(s)" shall be construed to mean "Thrift Savings Fund" as established under section 8437 of FERSA. (4) The term "party in interest" shall be construed to mean "party in interest" as defined in section 8477(a)(4) of FERSA. (5) Reference in the Class Exemptions to "section 502(i) of the Act" shall be deemed to apply to section 8477(e)(1)(B) of FERSA. (6) References in the Class Exemptions to "subsections (a)(2) and (b) of section 504 of the Act" shall be deemed to apply to section 8478a of FERSA. (7) References in the Class Exemptions to section 4975 of the Internal Revenue Code (the Code) or subsections thereunder are not applicable with respect to the Fund, pursuant to sections 4975(g) and 414(d) of the Code. (8) For purposes of Section I(b)(2) of PTE 86-128, the term "relative (as defined in section 3(15) of ERISA)" shall mean any spouse, ancestor, lineal descendant, or spouse of a lineal descendant. (9) For purposes of PTE 78-19 and PTE 80-51, the phrase "by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act" shall mean "by reason of a relationship to a service provider described in section 8477(a)(4) (F), (G), (H), (I) or (J) of FERSA."

III. Effective Date

The adoption proposed herein of the Class Exemptions for purposes of section 8477(c)(2) of FERSA of the relevant subsections thereunder would be effective as of January 1, 1988.

Signed at Washington, DC, this 23rd day of September 1988.

David M. Walker,

Assistant Secretary, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88-22313 Filed 9-28-88; 8:45 am]

BILLING CODE 4510-29-M

LIBRARY OF CONGRESS

American Folklife Center Board of Trustees; Meeting

AGENCY: Library of Congress.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Board of Trustees of the American Folklife Center. This notice also describes the functions of the Center. Notice of this meeting is required in accordance with Pub. L. 94-463.

DATE: October 14, 1988, 9:30 a.m. to 4:30 p.m.

ADDRESS: Whittall Pavilion, Jefferson Building, Library of Congress, 10 First Street, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Raymond L. Dockstader, Deputy Director, American Folklife Center, Washington, DC 20540.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Raymond Dockstader at (202) 287-6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publications, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has energetically carried out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Dated: September 13, 1988.

Donald C. Curren,

Acting Associate Librarian for Management.

[FR Doc. 88-22410 Filed 9-28-88; 8:45 am]

BILLING CODE 1410-01-M

Copyright Office

[Docket No. 86-4]

Policy Decision on Copyrightability of Digitized Typefaces**AGENCY:** Copyright Office, Library of Congress.**ACTION:** Notice of policy decision.

SUMMARY: The purpose of this notice is to inform the public that the Copyright Office has decided that digitized representations of typeface designs are not registrable under the Copyright Act because they do not constitute original works of authorship. The digitized representations of typefaces are neither original computer programs (as defined in 17 U.S.C. 101), nor original databases, nor any other original work of authorship. Registration will be made for original computer programs written to control the generic digitization process, but registration will not be made for the data that merely represents an electronic depiction of a particular typeface or individual letterforms. If this master computer program includes data that fixes or depicts a particular typeface, typefont, or letterform, the registration application must disclaim copyright in that uncopyrightable data.

EFFECTIVE DATE: September 29, 1988.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559. Telephone (202) 287-8380.

SUPPLEMENTARY INFORMATION:**1. Background**

Under section 410(a) of the Copyright Act of 1976, title 17 of the United States Code, the Register of Copyrights determines whether the material submitted for registration "constitutes copyrightable subject matter and that other legal and formal requirements have been met" before issuing a certificate of registration.

To be registrable and copyrightable, a work must constitute an "original work of authorship," 17 U.S.C. 102. Useful articles are not protected except to the extent the articles contain artistic features capable of existing separately and independently of the overall utilitarian shape. Variations of typographic ornamentation [or] "mere lettering" are not copyrightable. 37 CFR 202.1(a). In *Eltra Corp. v. Ringer*, 579 F.2d 294 (4th Cir. 1978), the Fourth Circuit upheld the Office's refusal to register a claim to copyright in typeface design under its then regulation, 37 CFR 202.10(c)(1978) [now codified in the Copyright Act in the definition of

"pictorial, graphic, or sculptural works"]. The *Eltra* court reasoned that "it is patent that typeface is an industrial design in which the design cannot exist independently and separately as a work of art." 579 F.2d at 298.

The decision in *Eltra Corp. v. Ringer* clearly comports with the intention of the Congress. Whether typeface designs should be protected by copyright was considered and specifically rejected by Congress in passing the Copyright Act of 1976. The 1976 House Report states:

A "typeface" can be defined as a set of letters, numbers, or other symbolic characters, whose forms are related by repeating design elements consistently applied in a notational system and are intended to be embodied in articles whose intrinsic utilitarian function is for use in composing text or other cognizable combinations of characters. The Committee does not regard the design of typeface, as thus defined, to be a copyrightable "pictorial, graphic, or sculptural work" within the meaning of this bill and the application of the dividing line in section 101. [H.R. Rep. No. 1476, 94th Cong., 2d Sess. 55 (1976)].

In rejecting copyright protection for typeface designs, the Congress in addition deferred a decision on a more limited form of protection under proposed ornamental design legislation. Title II of the 1976 copyright revision bill as passed by the Senate could have protected typeface designs, but the House of Representatives had doubts about even this limited form of protection. Consequently, only copyright revision passed. H.R. Rep. No. 1476 at 50 and 55. Design legislation has yet to be enacted, and Congress has chosen not to include typeface designs within the Copyright Act's definition of pictorial, graphic or sculptural works.

The Copyright Office has received applications to register claims to copyright in material variously termed "data," "database," "computer program," "compilation of data," and "typefont data set," which relate to, or represent, digitized versions of typeface designs. A Notice of Inquiry was published in October 1986 requesting public comment regarding the registrability of this material. (51 FR 36410 (Oct. 10, 1986)). The Notice raised primarily four questions about the nature and extent of any copyrightable authorship in digitized typography, apart from the typeface design itself: whether there exist a variety of ways to express instructions for creating the same typeface design; are there any copyrightable elements, apart from the unprotectible typeface design, which comprise the "original work of authorship;" does the "information,"

"instructions," or "data" comprise a computer program, compilation or database; and, finally, if registration is permitted, what would be the appropriate form of deposit?

The comment period was extended twice (52 FR 3146 and 52 FR 23476) to allow full public comment. A total of 19 initial and reply comments were received, including a videotape demonstration of the digitization process and other exhibits.

2. Technology and the Digitizing Process

In describing the process of the digitization of typefont characters, the Office will employ technical terms, for which we adopt the following definitions. "Digital typefont" is a bitmapped digital representation of an actual analog typeface design, stored in binary form on magnetic or optical media, or Read-Only-Memory (ROM) mounted on a circuit board. Sometimes, the ROM on the circuit board is assembled into a plastic cartridge which is inserted into a laser printer or other microprocessor-driven device. When decoded and interpreted, by the "bitmapping code" software, the digital representation of the design will reproduce the appropriate character. "Bitmapping" refers to the technology that allows control of individual pixels on a display screen to produce graphic elements of superior resolution, permitting accurate reproduction of arcs, circles, sine waves, or other curved images. A "bitmapped character," whether used on a computer screen or on a dot-matrix or laser printer, is a dotted representation of an analog letter or character image where dots are so close together that when reduced to actual printed or displayed size, they form an image or character without the need to connect the dots.

To create a digitized typeface from an existing analog typeface, analog visual representations of characters are scanned and represented as a collection of discrete picture elements, called pixels. Pixels can be efficiently encoded in digital form on any convenient storage medium. The medium can be magnetic (e.g. tape, disk or diskette), electronic (e.g., ROM cartridge), or optical (e.g., video-disk). The encoded digitized representation is then organized as bits of information, manipulated and changed (usually reduced to minimize storage requirements) and placed in a format usable with a specific program and compatible digital typesetter.

Typically, a specialized computer circuit in the printing device reads the information from the storage media or

cartridge and causes a laser beam to draw a representation of a particular typefont character on a cylindrical surface in direct response to the digital data and instructions in the media or cartridge. This image is then transferred by a process, similar to printing, to paper from which the information is read or the printer may drive a set of wires against an inked ribbon that places dots on the paper. The visual representation appears once again.

There are basically three techniques applied to represent characters digitally: Bitmapping, outlining and stroke definition. A digitized typeface could be prepared by bitmapping alone, but it is more common to use a combination of the three techniques to improve the quality of the typeface.

Bitmapping is a dot-by-dot representation of each character. A different bitmap is required for each size and style of a character, and there are several ways to create a bitmap. The most popular ways are by scanning black and white images, scan converting a digital outline representation (soft scanning) using software written for this purpose, building up an image bit-by-bit using an interactive editor on a computer, and through a combination of scanning and editing.

In the outline method, lines or curves define the boundaries of typeface characters. The outlines can consist of straight line segments only or straight line segments along with abstract representations of the curves. The digital information, comprised of instructions and data, is fixed by a computer operator who digitally locates only the outlines of characters. In order to form a completed letter on a screen display or on paper when printed out, an outline font program instructs a computer or printer logic to fill in the outline of the character. If a laser printer is used, the beam sweeps from side to side or up and down within the boundaries of the letter, filling in the bounded area with dots that will show up as solids on the paper or screen.

In the stroked definition method, characters are represented like the "strokes" of a pen or brush following the path of a straight or curved line. The computer operator must define the characteristics of the "pen" or "brush," such as what occurs at corners and stroke endings. Ultimately, these descriptions must be converted into bitmaps.

Finally, digitization techniques may be used to create a new typeface—one that has no prior analog counterpart.

3. Summary of Comments

The Copyright Office received 19 initial and reply comments in response to its Notice.

Two comments maintain that the digitized typefaces are not copyrightable. The first argues that the only difference between the digitized version and the unprotectible typeface itself is that the former is "read" by a machine to create the visually perceptible typeface. The "look-up" table in a bitmap, this comment continues, is a one-on-one correlation which involves no creativity. The algorithms used in the outline method likewise involve *de minimis* judgment and creativity. Finally, the commentator cautions that protection of digitized versions of typeface may inhibit the standardization of character matrixes that facilitate the compatibility of software for personal computers.

The second comment opposing registration declares that bitmaps are static data, fixed representations of images at a given resolution. This comment compares the static dot pattern representation of each letter to the patterns cast and carved onto metal in medieval times.

In support of registration, eleven comments espouse variations of the basic proposition that the data and instructions which comprise the digital typefont are computer programs, copyrightable databases or some protectible hybrid of the two. The themes which run through their various comments are that the data and instructions are a "work" apart from the typeface itself, the "work" is "used directly or indirectly in a computer to bring about a certain result" and qualifies as a computer program within the meaning of section 101 of title 17, and/or the ultimate shape of the typefont character does not predetermine its digital representation and elements of human selection and arrangement are required, constituting a protectible database.

One comment states that the "work" is a computer program which operates on a data stream and is configured in a particular format. Another amplifies this position, explaining that execution of the program calls up stored data in the form of digitized typeface instructions and converts the instructions into printed typeface characters.

Two comments take the position that the "rule of doubt" should be used. The first argues that digitized databases are both databases and programs, and, since neither can be read by the Office, ultimately the courts should decide on their copyrightability. This comment

advocates that, in any event, the "work" is protectible as a program, compilation or separately as a literary work.

Another comment claims protection for the edited, compiled set of instructions and data as a literary work. The second comment espousing rule of doubt would limit the registration to the typeface database.

Several comments state that not all typeface programs and databases are protectible. Purely mechanical translations from analog to digitized typefaces, they acknowledge, are not copyrightable. For example, they state that protection should not be extended where an analog typefont is merely scanned into digital form with no editing or selection of font characteristics, or where there is mere duplication of preexisting digital typefont without further editing.

One comment recommends considering typefont a special class of program. Another one opines that the protectible work is a digital photograph.

Copyrightable expression attaches, another comment contends, in that programming choices exist apart from the functional data and algorithms utilized in the program expressing the typeface design.

One comment recommends protecting the typefont as a software/database hybrid. The "work" is the integration of all elements of the software and database. The software should be protected separately also, this comment continues, because it is a different work than the typeface, and programs are protectible, it is argued, even if they ultimately produce an uncopyrightable end product.

Another comment describes the choices inherent in font digitization, and argues that the combination of data and instructions satisfies the Copyright Act's definition of the term "computer program." The digital image, it maintains, can be represented in different computer languages using different techniques. This comment also states that no distinction is drawn at the machine language level between data and instructions. In general purpose programming languages, the surface separation between data and algorithms is for the ease of human programmers. Programs are like sentences: Algorithms (verbs) act upon data (nouns). In some languages, data and algorithms are tightly bound in a single program. In others, the data and algorithms are initially stored separately, though they must be conjoined in order for the computer to successfully execute the instructions for rendering digital type. This comment further argues that the

conversion from analog to digital is not an automatic computer process—different printers read different computer languages and this must be factored into the translation; the translation is a derivative work.

Another comment states that programs to generate typeface design can be written in various languages and for many different machines with distinct programs. Typeface programs, it is argued, are original and creative and should be protected.

4. Policy Decision and Rationale

The proponents of copyright registration for data or other elements related to digitized typefaces seek, as they must, to present arguments for protection of data, or program instructions, or hybrid works consisting of both data and instructions that are entitled to copyright apart from the uncopyrightable typeface designs and typefonts. Both the Congress and the Fourth Circuit Court of Appeals in *Eltra Corp. v. Ringer* decided that analog typeface designs are not now copyright subject matter. The Copyright Office concludes that typefaces created by a computerized-digital process are also uncopyrightable. Like analog typefaces, digitally created typefaces exhibit no creative authorship apart from the utilitarian shapes that are formed to compose letters or other font characters.

Congress has not only rejected copyright protection for typeface designs. It has refused to enact a more limited form of protection, the proposed "design protection law," which might be a vehicle for typeface design protection.¹

In making this decision on registration for digitized versions of typefaces, the Copyright Office has been conscious of the need for caution to avoid a decision that would undermine the clear congressional and judicial findings that typeface designs are not copyright subject matter. Moreover, a typefont is not copyrightable since it constitutes the useful article itself.

The issue then is whether the process of computer assisted digitization of uncopyrightable typeface designs and typefonts creates compilations of data or computer program instructions that are copyrightable and separate from the uncopyrightable elements. We conclude that computer programs used to control the general digitization process and that otherwise meet the standards for

protection are registrable notwithstanding their use in generating unprotectible typefonts, but the claim to copyright must exclude any data that merely depicts the typeface or letterforms.

Although most comments favored protection of the data/instructions actually depicting particular digital typefonts, our analysis of the copyright statute and relevant judicial precedent, as well as the arguments of the comments that opposed registration (and even the comments of some of those supporting registration of some elements), convinces us that any data that merely transforms an analog visual representation of a typeface or letterform into a digital electronic typefont or letterform is not protectible as a work of authorship.

The Copyright Act, 17 U.S.C. 101 *et seq.* (1976), defines the term compilation as "a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship." 17 U.S.C. 101. To be an original work of authorship, a compilation must include subjective elements of human selection and arrangement. *Financial Information, Inc. v. Moody's Investor Service, Inc.*, 808 F.2d 204, 206-08 (2d Cir. 1986), *cert. denied*, 108 S.Ct. 79 (1987). Because the typefont data is determined by the ultimate shape of the typeface character, and requires *de minimis*, if any, selection and arrangement, it does not qualify as a compilation or any other original work of authorship.

Proponents of registration argued that the data representing a digitized typeface should be copyrightable because, after the initial rendering of the letterform into electronic digital form, there is selection, coordination, or arrangement of data/instructions in order to generate an acceptable, final typeface image. One commentator drew an analogy to "connect-the-dots" or "fill-in-the-blanks" illustrations in children's books. The analogy is unpersuasive. A "connect-the-dots" illustration is copyrightable only if the "connected" illustration is a copyrightable pictorial or graphic work. In the case of typeface "connect-the-dots," the "connected" illustration is an uncopyrightable typeface, and the connecting process is indistinguishable from the creation of the typeface design itself.

Proponents also argued that the data representing a digitized typeface is copyrightable even though the end result—a typeface or typefont—is

uncopyrightable. By analogy to a cookbook, they argued that the explanation and illustration of recipes is copyrightable even though the end result—the food product—is not. The Copyright Office agrees, of course, that original explanations and illustrations in cookbooks are copyrightable. But neither lists of ingredients nor the method of preparing the food product is copyrightable. The Copyright Office finds that digitized typeface data is more like an uncopyrightable list of ingredients than a copyrightable explanation or illustration of a process.

Before the advent of digitized typeface technology, arguments were made that, in creating new typeface designs, artists expended thousands of hours of effort in preparing by hand the drawings of letters and characters that ultimately would lead to the creation of an original typeface design. After several years of consideration and a public hearing, the Copyright Office found that this effort did not result in a work of authorship. The Office refused to register claims in typeface designs or in the drawings of the letters and typefont characters because the design choices were responsive to the functional characteristics of typefonts used in high-speed printing. That is, no work of authorship existed separate from the utilitarian aspects of typefonts and letterforms. That decision was upheld in *Eltra Corp. v. Ringer*.

Under earlier technology, typeface designs were fixed in wood blocks, in cold metal, or in film fonts. With computer-digital technology, the typeface is fixed in an electronic font. The Copyright Office finds that no work of authorship is created by the process that fixes or depicts a particular typeface in a digital electronic form. Like analog typeface design, the design choices or any selection of data involved in the bitmapping, outlining, and stroke definition techniques are limited by the objective of rendering or fixing the uncopyrightable electronic font. This finding applies both to the initial scanning of the letterforms and to the subsequent refining of the typeface by "curving," "connect-the-dots," and other techniques. The data created is an electronic depiction of the typeface. In fact, there are fewer authorship choices involved in transforming an existing analog typeface to an electronic font than in using the digitization process to create a new typeface design. Yet clearly the typeface design and the process of creating it are uncopyrightable whether the process is digital or analog. The use of the computer in this process neither

¹ The Senate design bill, S. 791, would specifically protect typeface designs. The House bills (H.R. 379; H.R. 1179; H.R. 1603) omit specific reference to typeface, but the definitions of the bills probably include typeface protection.

diminishes nor adds to the factors that determine copyrightability.

The Copyright Office observes that more digitization of even a pre-existing copyrightable work does not result in a new work of authorship. The digitized version is a copy of the pre-existing work and would be protected as such, but no new work of authorship is created. A novel may be digitized and stored in an electronic medium. Protection depends on the status of copyright in the novel; digitization does not add any new authorship.

Although the master computer program used to control the generic digitization process is protectible and may be registered, if original, this protection does not extend to the data fixing or depicting a particular typeface or typefont or to any algorithms created as an alternative means of fixing the data. The Office will register a program that can be used to create digitized versions of various typefaces but will not register the data used to depict a particular typeface or individual letterforms. If the computer program submitted for registration includes data that fixes or depicts a particular typeface, typefont, or letterform, the Office requires an appropriate disclaimer of copyright on the application to exclude the uncopyrightable data.

The Copyright Office in this decision has been conscious of the interests of typeface developers and the interests of typeface users, who, in accordance with a congressional decision not to protect typefaces, are entitled to copy this uncopyrightable subject matter. While copyright protection is not available for digitized versions of typefaces, the typeface industry has other avenues of protection through unfair competition laws, contract, and perhaps trade secrecy and trademark protection.

On the other hand, the congressional decision not to protect typeface designs, in addition to adhering to traditional standards of original authorship, reflects a concern about inappropriate protection of the vehicles for reproducing the printed word. If copyright protection existed for the data representing a particular typeface design, a printer who innocently used an infringing electronic typefont to print a public domain book would presumably infringe the copyright in the data fixed in the electronic font. The Copyright Office is persuaded that this result would undermine the congressional policy against protection for typeface designs.

The Office therefore concludes that, if copyright protection for the master computer program alone is not adequate

to encourage creativity in the field of computer-assisted typeface design, any broader protection, if appropriate, should be legislated by Congress rather than established by administrative decision-making. Congress is the appropriate forum for debating the concerns that infect the question of legal protection for typeface designs or digitized representations of typefaces. Congress can legislate limitations on the scope of protection, including any appropriate exemptions for printers or other secondary, "innocent infringers."

Dated: September 13, 1988.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 88-22394 Filed 9-28-88; 8:45 am]

BILLING CODE 1410-07-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[88-85]

NASA Advisory Council (NAC), Space Station Science and Applications Advisory Subcommittee (SSSAAS); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Station Science and Applications Advisory Subcommittee.

DATE AND TIME: October 13, 1988, 8:30 a.m. to 5 p.m., and October 14, 1988, 11 a.m. to 3 p.m.

ADDRESS: South Shore Harbour Conference Center, Lake Shore Boulevard, FM 2094, League City, TX 77573.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph K. Alexander, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1430).

SUPPLEMENTARY INFORMATION: The Space Station Science and Applications Advisory Subcommittee reports to the Space Science and Applications Advisory Committee (SSAAC) and the Aerospace Medicine Advisory Committee (AMAC) and consults with and advises the NASA Office of Space Science and Applications (OSSA) on the

new capabilities to be made available by the Space Station program and how these may be most effectively utilized. It also advises the NASA Office of Space Station (OSS) on how the Space Station program may most effectively support potential science and applications users. The Subcommittee will meet to discuss comments from NASA on the SSSAAS summer study recommendations, future plans from OSSA and updates of various programs in progress, and reports on crew interaction with science. The group is chaired by Dr. Franklin Lemkey and is composed of 20 members. The meeting will be open to the public up to the capacity of the room (approximately 50 people including the members of the Subcommittee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of meeting: Open.

Agenda:

Thursday, October 13

8:30 a.m.—Welcome and Introduction.

9 a.m.—Discussion: Comments and Recommendations from NASA on SSSAAS Summer Study in Hyannis, MA; Office of Space Science and Applications (OSSA) plans for future solicitations and announcements of opportunity.

10:30 a.m.—Report on Memorandum of Understanding.

11 a.m.—Results of Level II Preliminary Requirements Review.

2 p.m.—Joint Science Utilization Study.

2:30 p.m.—OSSA Microgravity Science and Applications facilities.

3 p.m.—Crew Interaction with Science.

4:30 p.m.—Extended Duration Crew Operation.

5 p.m.—Adjourn.

Friday, October 14

11 a.m.—Contamination Report.

1:30 p.m.—Report on Pressurized Volume Task Force Report.

2:30 p.m.—Summary and Future Actions.

3 p.m.—Adjourn.

September 23, 1988.

Ann Bradley,

Advisory Committee Management Officer,
National Aeronautics and Space Administration.

[FR Doc. 88-22287 Filed 9-28-88; 8:45 am]

BILLING CODE 7510-01-M

[88-84]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting**AGENCY:** National Aeronautics and Space Administration.**ACTION:** Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Review Team on Planet Earth Technologies.

DATE AND TIME: October 20, 1988, 9 a.m. to 4:30 p.m., and October 21, 1988, 9 a.m. to 3:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 647, Federal Office Building 10B, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne R. Hudson, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2740.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance to the Office of Aeronautics and Space Technology (OAST) on space systems and technology program. Special ad hoc review teams are formed to address specific topics. The Ad Hoc Review Team on Planet Earth Technologies, chaired by Dr. Paul W. Mayhew, is comprised of eight members. The meeting will be open to the public up to the seating capacity of the room (approximately 28 persons including the team members and other participants).

Type of Meeting: Open.

Agenda:**October 20, 1988**

9 a.m.—Ad Hoc Team Charge, Charter and Scope.

9:50 a.m.—Introductions, Member Background and Experience.

10:30 a.m.—Earth Science and Applications Division Program and Mission Plans.

1 p.m.—Mission to Planet Earth.

2 p.m.—Operational Mission Requirements.

3 p.m.—International Programs and Activities.

4 p.m.—Discussion.

4:30 p.m.—Adjourn.

October 21, 1988

9 a.m.—Discussion.

1 p.m.—Discussion Continued.

2:30 p.m.—Critical Issues and Actions Summary.

3:30 p.m.—Adjourn.

Ann Bradley,

Advisory Committee Management Officer,
National Aeronautics and Space
Administration.

September 23, 1988.

[FR Doc. 88-22286 Filed 9-28-88; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION**Division of Earth Sciences; Revised Notice of Meeting**

The National Science Foundation announces the following meeting:

The notice was revised to include an open portion and originally appeared in the *Federal Register* on September 15, 1988.

Name: Earth Science Proposal Review Panel.

(Continental Lithosphere Program)

Date: October 3, 4 and 5, 1988.

Time: 8:30 a.m. to 5:30 p.m. each day.

Place: The National Science Foundation, Room 642, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open—

October 3—8:30 a.m. to 5:30 p.m.

October 4—8:30 a.m. to 12 noon

Closed—

October 4—1:00 p.m. to 5:30 p.m.

October 5—8:30 a.m. to 4:00 p.m.

Contact Person: Dr. David Speidel, Head, Major Projects Section, Earth Sciences, Room 602, National Science Foundation, Washington, DC 20550; Telephone: (202) 357-9591.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in the Continental Lithosphere Program, Division of Earth Sciences.

Agenda:

Closed—To review and evaluate research proposals and projects as part of the selection process for awards.

Open—Discussion of Continental Lithosphere Programs.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C.

552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
September 26, 1988.

[FR Doc. 88-22385 Filed 9-28-88; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-348 and 50-364]

Alabama Power Co., Joseph M. Farley Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Alabama Power Company (the licensee), for the Joseph M. Farley Nuclear Plant, Units 1 and 2, located at the licensee's site in Houston County, Alabama.

Environmental Assessment**Identification of Proposed Action**

On August 5, 1987, the NRC published in the *Federal Register* a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending

rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room 2120 L Street NW., Washington, DC, and at the Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.

Lester L. Kintner,

Acting Director, Project Directorate II-1,
Division of Reactor Projects I/II.

[FR Doc. 88-22359 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co. et al., Brunswick Steam Electric Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Carolina Power & Light Company et al. (the licensee), for the Brunswick Steam Electric Plant, Units 1 and 2, located at the licensee's site in Brunswick County, North Carolina.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the Federal Register a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to

obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate

and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room 2120 L Street NW., Washington, DC, and at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

For the Nuclear Regulatory Commission,
Lester L. Kintner,
Acting Director, Project Directorate II-1,
Division of Reactor Projects I/II.
[FR Doc. 88-22351 Filed 9-28-88; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power & Light Co., H.B. Robinson Steam Electric Plant, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Carolina Power & Light Company (the licensee) for the H. B. Robinson Steam Electric Plant, Unit 2, located at the licensee's site in Darlington County South Carolina.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the *Federal Register* a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impact of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Hartsville Memorial Library, Nuclear Information Depository, 220 N. Fifth Street, Hartsville, South Carolina 29550.

Dated at Rockville, Maryland, this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.

Lester L. Kintner,

Acting Director, Project Directorate II-1,
Division of Reactor Projects I/II.

[FR Doc. 88-22349 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-400]

**Carolina Power & Light Co., et al.,
Shearon Harris Nuclear Power Plant,
Unit 1; Environmental Assessment and
Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Carolina Power & Light Company, et al. (the licensee) for the Shearon Harris Nuclear Power Plant, Unit 1, located at the licensee's site in Wake and Chatham Counties, North Carolina.

*Environmental Assessment**Identification of Proposed Action*

On August 5, 1987, the NRC published in the Federal Register a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and

provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the SUPPLEMENTARY INFORMATION accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provision of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination

liability and excess property insurance language of the Nuclear Electric Insurance Limited—II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Richard B. Harris Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.

Lester L. Kintner,

Acting Director, Project Directorate II-1,
Division of Reactor Projects I/II.

[FR Doc. 88-22350 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co., Big Rock Point Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Consumers Power Company (the licensee) for the Big Rock Point Plant, located at the licensee's site in Charlevoix County, Michigan.

Environmental Assessment*Identification of Proposed Action*

On August 5, 1987, the Commission published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by the Commission's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988, insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the Commission has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to

reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, the Commission would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the North Central Michigan College, 1515 Howard Street, Petosky, Michigan 49770.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission,
Dominic C. Dilanni,

Acting Director, Project Directorate III-1,
Division of Reactor Projects, III, IV, V &
Special Projects.

[FR Doc. 88-22353 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-225]

Consumers Power Co., Palisades Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Consumers Power Company (the licensee) for the Palisades Plant, located at the licensee's site in Van Buren County, Michigan.

Environmental Assessment*Identification of Proposed Action*

On August 5, 1987, the Commission published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by the Commission's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988, insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the Commission has been informed by insurers who offer nuclear property insurance that, despite

a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small

probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, the Commission would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Van Zoeren Library, Hope College, Holland, Michigan 49423.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.

Dominic C. Dilanni,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-22352 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[FERMI-2; Docket No. 50-341]

Detroit Edison Co.; Wolverine Power Supply Cooperative, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to the Detroit Edison Company and the Wolverine Power Supply Cooperative, Incorporated (the licensees) for Fermi-2, located at the licensees' site in Monroe County, Michigan.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the Commission published in the *Federal Register* a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by the Commission's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988, insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the Commission has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensees shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in

implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensees will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, the Commission would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff did not consult other agencies or persons in

connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Monroe County Library System, 3700 S. Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission,
Dominic C. DiIanni,
Acting Director, Project Directorate III-1,
Division of Reactor Projects—III, IV, V and
Special Projects.

[FR Doc. 88-22360 Filed 9-28-88; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., Crystal River Unit 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Florida Power Corporation (the licensee), for Crystal River Unit 3, located at the licensee's site in Citrus County, Florida.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the Federal Register a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to

publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric

Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC, and at the Crystal River Public Library, 668 NW First Avenue, Crystal River, Florida 32629.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission,
Herbert N. Berkow,

Director, Project Directorate II-2, Division of
Reactor Projects-1/II, Office of Nuclear
Reactor Regulation.

[FR Doc. 88-22354 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-335 and 50-389]

Florida Power and Light Co., St. Lucie Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to the Florida Power and Light Company (the licensee) for the St. Lucie Plant, Units 1 and 2, located at the licensee's site in St. Lucie County, Florida.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the Federal Register a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking

action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338) and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.
Herbert N. Berkow,
*Director, Project Directorate II-2, Division of
Reactor Projects-I/II, Office of Nuclear
Reactor Regulation.*

[FR Doc. 88-22347 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co., Turkey Point Plant, Units 3 and 4; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to the Florida Power and Light Company (the licensee) for the Turkey Point Plant, Units 3 and 4, located at the licensee's site in Dade County, Florida.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the *Federal Register* a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has

been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small

probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338) and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,
*Director, Project Directorate II-2, Division of
Reactor Projects-I/II, Office of Nuclear
Reactor Regulation.*

[FR Doc. 88-22348 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-315 and 50-316]

Indiana Michigan Power Co., Donald C. Cook Nuclear Plant, Units Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Indiana Michigan Power Company (the licensee) for the Donald C. Cook Plant, Units Nos. 1 and 2, located at the licensee's site in Berrien County, Michigan.

Environmental Assessment**Identification of Proposed Action**

On August 5, 1987, the Commission published in the *Federal Register* a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by the Commission's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988, insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the Commission has been informed by insurers who offer nuclear property insurance that, despite a good faith to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to

reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, the Commission would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Maude Preston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For The Nuclear Regulatory Commission.

Dominic C. Dilanni,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-22361 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power & Light Co., System Energy Resources, Inc., and South Mississippi Electric Power Association, Grand Gulf Nuclear Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Mississippi Power & Light Company, System Energy Resources, Inc. and South Mississippi Electric Power Association (the licensees) for the Grand Gulf Nuclear Station Unit 1, located at the licensees' site in Clairborne County, Mississippi.

Environmental Assessment**Identification of Proposed Action**

On August 5, 1987, the NRC published in the *Federal Register* a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and

provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance

language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the George M. McLendon Library, Hinds Junior College, Main Street, Raymond, Mississippi 39154.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For The Nuclear Regulatory Commission,
Lester L. Kintner,

Acting Director, Project Directorate II-1,
Division of Reactor Projects 1/II.

[FR Doc. 88-22362 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co., Monticello Nuclear Generating Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Northern States Power Company (the licensee) for the Monticello Nuclear Generating Plant, located at the licensee's site in Wright County, Minnesota.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the Commission published in the *Federal Register* a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by the Commission's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988, insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the Commission has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the

exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the **SUPPLEMENTARY INFORMATION** accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, the Commission would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrently with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Technology and Science Department, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Dated at Rockville, Maryland, this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.

Dominic C. Difanni,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-22356 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Northern States Power Company (the licensee) for the Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, located at the licensee's site in Goodhue County, Minnesota.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the Commission published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by the Commission's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988, insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to

publication of the rule, the Commission has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for the Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the **SUPPLEMENTARY INFORMATION** accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally,

there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, the Commission would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The Commission's staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Technology and Science Department, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission,
Dominic C. Dilanni,

*Acting Director, Project Directorate III-1,
Division of Reactor Projects—III, IV, V and
Special Projects.*

[FR Doc. 88-22355 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

South Carolina Electric & Gas Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operation License No. NPF-12 issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for operation of the Virgil C. Summer Nuclear Station, Unit No. 1, located in Fairfield County, South Carolina.

The proposed amendment would allow an alternative to tube plugging or sleeving in the steam generators for indications that occur in the tubesheet area. This alternate method, designated the L* criteria, defines a length of undergraded expanded tube in the tubesheet which is sufficient to maintain, well below the Technical Specification limit, any potential leakage resulting from cracks occurring further down into the tubesheet. Use of the L* criteria requires the condition of the degradation in the tubesheet be assessed to determine the orientation and location of the cracks.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By October 31, 1988 the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and

how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram

Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factor specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated August 1, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Dated at Rockville, Maryland, this 22nd day of September, 1988.

For the Nuclear Regulatory Commission,
Lester L. Kintner,

Acting Director, Project Directorate II-1,
Division of Reactor Projects I/II, Office of
Nuclear Reactor Regulation.

[FR Doc. 88-22358 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

**South Carolina Electric & Gas Co.,
South Carolina Public Service
Authority, Virgil C. Summer Nuclear
Station, Unit No. 1; Environmental
Assessment and Finding of No
Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to South Carolina Electric

& Gas Company and the South Carolina Public Service Authority (the licensees) for the Virgil C. Summer Nuclear Station, Unit 1, located at the licensee's site in Fairfield County, South Carolina.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the Federal Register a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities.

Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.

Lester L. Kintner,

Acting Director, Project Directorate II-1,
Division of Reactor Projects I/II.

[FR Doc. 88-22357 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

**Toledo Edison Co. and The Cleveland Electric Illuminating Co.;
Environmental Assessment and
Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-3, issued to Toledo Edison Company and the Cleveland Electric Illuminating Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 located in Ottawa County, Ohio.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Davis-Besse Nuclear Power Station, Unit No. 1, Technical Specifications (TS's) relating to manual initiation pushbuttons in the Steam and Feedwater Rupture Control System (SFRCS). Specifically, the amendment would change TS 3.3.2.2, Table 3.3-11, Steam and Feedwater Rupture Control System Instrumentation, functional unit 5, Manual Initiation. The change would reduce the number of pushbuttons from 10 to 4, and would redesignate the pushbuttons to reflect the action initiated by the pushbutton vice the system condition that would cause the operator to initiate manual action.

The Need for the Proposed Action

The proposed changes are needed to permit control room modifications which will reduce the possibility of human error when initiating the SFRCS manually. The modifications will resolve the concerns regarding the manual initiation of auxiliary feedwater which is documented in the section on Control

Room Improvement in the Toledo Edison Course of Action report and Sections 3.3.3 and 3.3.4 of NUREG-1177, Davis-Besse Restart Safety Evaluation.

The Commission has evaluated the environmental impact of the proposed amendment and has determined that neither the probability of accidents nor the post-accident radiological releases would be greater than previously determined. The proposed amendment does not otherwise affect radiological plant effluents during normal operation. In addition, the proposed amendment does not have any influence upon occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed amendment.

With regard to potential nonradiological impacts, the proposed amendment does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 3, 1988 (53 FR 15757). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Since the Commission has concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce the environmental impacts attributable to this facility and would only result in retaining a serious human engineering defect in the control room.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to operation of the Davis-Besse facility.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated January 30, 1988 which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.

Kenneth E. Perkins,

Director, Project Directorate III-3, Division of
Reactor Projects—III, IV, V and Special
Projects.

[FR Doc. 88-22363 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

**Virginia Electric and Power Co.; North Anna Power Station, Units 1 and 2;
Environmental Assessment and
Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Virginia Electric and Power Company (the licensee) for the North Anna Power Station, Units 1 and 2, located at the licensee's site in Louisa County, Virginia.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustee

required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the exemption and associated rulemaking action will permit the Commission to reconsider on its merits the trusteeship provision of 10 CFR 50.54(4)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period.

Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other agencies or persons in connection with the proposed exemption.

Finding of no Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Dated at Rockville, Maryland, this 23rd day of September, 1988.

For the Nuclear Regulatory Commission,

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects-1/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22346 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co., Surry Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.54(w)(5)(i) to Virginia Electric and Power Company (the licensee) for the Surry Power Station, Units 1 and 2, located at the licensee's site in Surry, Virginia.

Environmental Assessment

Identification of Proposed Action

On August 5, 1987, the NRC published in the Federal Register a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be effective by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Need for The Proposed Action

The exemption is needed because insurance complying with requirements of 10 CFR 50.54(w)(5)(i) is unavailable and because the temporary delay in implementation allowed by the

exemption and associated rulemaking action will permit the Commission to reconsider of its merits the trusteeship provision of 10 CFR 50.54(w)(4).

Environmental Impacts of the Proposed Action

With respect to radiological impacts on the environment, the proposed exemption does not in any way affect the operation of licensed facilities. Further, as noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage already is prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

The proposed exemption does not affect radiological or nonradiological effluents from the site and has no other nonradiological impacts.

Alternatives to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption; any alternatives to the exemption will have either no environmental impact or greater environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The staff did not consult other

agencies or persons in connection with the proposed exemption.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For information concerning this action, see the proposed rule (53 FR 36338), and the exemption which is being processed concurrent with this notice. A copy of the exemption will be available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland this 23rd day of September, 1988.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-22345 Filed 9-28-88; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

Implementation of a Temporary Change in the Domestic Mail Classification Schedule Provision Regarding Second-Class Mail

AGENCY: Postal Service.

ACTION: Notice of implementation of a temporary change in the Domestic Mail Classification Schedule provision regarding second-class Mail requiring that "Plus" publications independently qualify for second-class mail privileges.

SUMMARY: This gives notice that the Domestic Mail Classification Schedule is amended, on a temporary basis, to provide specifically that "Plus" issues of second-class publications, whether or not published on the same day as another regular issue of the publication, are separate publications for purposes of qualifying for entry as second-class mail.

EFFECTIVE DATE: October 9, 1988.

FOR FURTHER INFORMATION CONTACT: Grayson M. Poats, (202) 268-2981.

SUPPLEMENTARY INFORMATION: On June 17, 1988, the United States Postal Service, pursuant to 39 U.S.C. 3623, filed a request with the Postal Rate Commission for a change in the mail classification schedule to make clear its

authority to prevent the abuse of second-class mail through the mailing of "Plus" issues of publications. The Commission assigned the case Docket No. MC88-2 and published a notice in the *Federal Register* on June 28, 1988 (53 FR 24388) describing the request and offering interested parties an opportunity to intervene.

The Postal Service requested a change in section 200.0123 of the Domestic Mail Classification Schedule to read as follows:

200.0123 For purposes of determining second-class eligibility and postage under Classification Schedule 200, an "issue" of a newspaper or other periodical shall be deemed to be a separate publication if:

a. It is published at a regular frequency, either on the same day as another regular issue of the same publication, or at such other frequency as prescribed by the Postal Service by regulation, and

b. It is distributed to more than (i) 10 percent nonsubscribers, or (ii) twice as many nonsubscribers as the other issue on that same day, or, if no other issue that day, any other issue distributed at the same frequency, whichever is greater.

Such separate publications must independently meet the qualifications in section 200.0101 through 200.0109, or 200.0110.

Pursuant to 39 U.S.C. 3641(e), the Postal Service may implement a proposed classification change, on a temporary basis, if the Commission does not issue a recommended decision on the Postal Service's request within 90 days of the filing of the request. This 90-day period expired on September 15, 1988, and the Postal Rate Commission has not yet issued a recommended decision on the Postal Service's request.

Pursuant to this statutory authority, and Resolution No. 88-7 adopted by the Board of Governors of the Postal Service on September 12, 1988, the Postal Service is amending section 200.0123 of the Domestic Mail Classification Schedule as set forth above, effective at 12:01 a.m. on October 9, 1988. An implementing regulation (section 425.227 of the Domestic Mail Manual), published elsewhere in this issue, also takes effect on October 9, 1988.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 88-22373 Filed 9-28-88; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE
COMMISSION[Release No. 34-26104; File No. SR-Amex-
88-3]**Self-Regulatory Organizations;
American Stock Exchange, Inc.; Order
Approving Proposed Rule Change
Concerning Repeal of the Special
Listing Criteria for Real Investment
Trusts**

On January 22, 1988, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to repeal section 114 of the Company Guide which sets forth special listing criteria for Real Estate Investment Trusts ("REITs").

The proposed rule change was noticed in Securities Exchange Act Release No. 25462 (March 15, 1988), 53 FR 9388 (March 22, 1988). One comment was received on the proposed rule change.³

In 1971, the Amex adopted special financial and corporate governance related listing criteria for REITs. At that time REITs were a relatively new form of business entity which were perceived to pose unique risks to investors. Specifically, the Commission was concerned with the potential for self-dealing by trustees, officers, or advisors of a trust, or any person affiliated with such persons. Accordingly, the special listing criteria for REITs, particularly that portion related to corporate governance, include rules that are designed to avoid conflicts of interest among the relevant parties in the administration of the trust. Currently, these special listing criteria for REITs are set forth in section 114 of the Exchange's Original Listing Requirements.

In its rule filing, the Amex proposes to rescind the special quantitative and qualitative listing standards for REITs. The Exchange notes that since 1971, when these guidelines were adopted, the market and public investors have become acquainted with the REIT format, and industry wide governance standards for REITs have evolved.⁴ The

exchange also notes that three are now a variety of publicly available real estate vehicles, the listing eligibility of which would be determined by application of the Exchange's general listing criteria, and in particular the Exchange's Original Listing Requirements.⁵ The Exchange contends that, because the same fundamental analysis is required for evaluating the listing of a real estate entity, whether or not organized as a REIT, there is little if any justification for continuing to require special listing criteria for REITs. Moreover, the Amex states that the proposal will remove or lessen existing burdens on competition in that the Amex is the only marketplace which has special listing criteria for REITs.

The Commission received one comment letter on the Exchange's proposal, which was submitted by the North American Securities Administrators Association, Inc. ("NASAA").⁶ In commenting on the Amex's proposal, NASAA objected to the repeal of section 114. In general, NASAA expressed concern that the repeal of special listing criteria for REITs would enable REITs to avoid NASAA or similar state standards applied in determining whether or not a particular REIT qualifies for listing.

Currently, section 114 provides both quantitative and qualitative listing standards for REITs. In regard to quantitative listing criteria for REITs, section 114(a) provides that, in order to qualify for original listing, an equity trust generally must have at least \$4,000,000 of tangible net worth, and a mortgage trust must have at least \$10,000,000 of tangible net worth. Similarly, section 114(b) provides that an equity trust must have at least \$400,000 of net income in its latest fiscal year, and a mortgage trust must have at least \$1,000,000 of actual or indicated annual net income. Assuming the repeal of section 114, the Exchange's general listing criteria would apply to the listing of REITs. In terms of quantitative listing standards, section 101(a) and (b) would recommend that a REIT have stockholders' equity of at least \$4,000,000 and pre-tax income of at least \$750,000 in its last fiscal year, or in two of its last three fiscal years. This provides a very similar listing standard than that set forth in section 114.

As previously noted, in the early 1970's when REITs were a relatively new form of business entity there was concern regarding conflicts of interest by a REITs trustees, officers or trust advisors, or persons affiliated with them. As a result, section 114(d) contains detailed qualitative requirements designed to avoid conflicts of interest by these parties. Currently, section 114(d)(i)A prohibits a majority of the trustees of a REIT from being affiliated with the advisor of the trust or any organization affiliated with the advisor of the trust. Similarly, section 114(d)(i)B prohibits the trustees, officers or advisors of a trust, or any person affiliated with such persons, from directly or indirectly selling to or purchasing from the trust any property or assets or receiving any commission or other remuneration in connection with such purchase or sale unless the transaction is fair and reasonable to the shareholders of the trust and relates to: (1) The acquisition of property or asset at the formation of the trust or shortly thereafter which are fully disclosed in the prospectus; (2) the acquisition by the trust of federally insured or guaranteed mortgages at prices not exceeding the currently quoted prices at which the Federal National Mortgage Association is purchasing comparable mortgages; (3) the acquisition of other mortgages on terms not less favorable to the trust than similar transactions involving unaffiliated parties; or (4) the acquisition by the trust of other property at prices not exceeding the fair value as determined by independent appraisal. Furthermore, this section provides that the foregoing transactions and all other transactions in which any such persons have any direct or indirect interest shall be approved by a majority of the trustees, including a majority of the independent trustees, and that all commissions or remuneration received by any such persons in connection with the foregoing transactions shall be deducted from the advisory fee.

The Amex's general conflict of interest provisions, which would apply to REITs should section 114 be repealed, cover many of the problem areas addressed by the Exchange's specific REIT provisions as set forth in section 114. Section 120 of the Company Guide provides that the existence of material conflicts of interest between companies and their officers, directors or principal shareholders (or members of their families or concerns controlled by or affiliated with, them) will be reviewed by the Exchange in considering the eligibility of companies for original listing. Further, section 120 provides that

¹ 15 U.S.C. 78s(b)(1) (1982).² 17 CFR 240.19b-4 (1987).³ See letter from James C. Meyer, President North American Securities Administrators Association, Inc. ("NASAA") to Jonathan G. Katz, Secretary, SEC dated May 4, 1988.⁴ See letter from Michael S. Emen, Vice President and Counsel, Amex to Howard Kramer, Assistant Director, SEC dated May 23, 1988.⁵ These are basically quantitative criteria, such as the required minimum tangible net worth and net income, that a security must meet to be listed on the Exchange.⁶ See letter from James C. Meyer, President, North American Securities Administrators Association, Inc. to Jonathan G. Katz, Secretary, SEC dated May 4, 1988.

the Exchange may require a company to enter into an agreement designed to reduce the possibility of abuse of an existing conflict situation or one that may arise in the future. Furthermore, pursuant to section 120, the Exchange may ask a company to eliminate conflict situations prior to listing or within a reasonable time thereafter. In addition, the Exchange's listing Form SD-1 provides that, in consideration of the listing of its securities with the Amex, a company will not enter into any material transactions (other than transactions relating to employment compensation) with any officer, director, or principal shareholder, or any affiliate, associate, relative, parent company or other entity in which such person has a direct or indirect material interest without first notifying the Exchange and obtaining the approval of such transaction by a disinterested majority of the company's Board of Directors or by a specially appointed committee, a majority of the members of which are independent directors.

Section 121 sets forth the Exchange's recommendations that every listed company have at least two independent directors and establish an audit committee composed solely of independent directors. Although this provision is phrased as a recommendation and not a requirement, all Amex companies are required to sign the basic Listing Agreements set forth in Form SD-1, which requires that a company, in consideration of the listing of its securities with the Amex, agree that it will "maintain at least two independent directors (defined as directors who are not officers or beneficial holders of 10% or more of the securities of the company or affiliates of such persons and who, in the view of the company's Board of Directors, are free of any relationship that would interfere with the exercise of independent judgment) on the company's Board of Directors."

In addition, the shareholders' approval provisions set forth the sections 710-713 of the Company Guide require a minimum vote (over 50% in interest of all securities entitled to vote), constituting shareholder approval for listing purposes, on a proposal on a particular matter pursuant to a proxy solicitation, and as further described in sections 711, 712 and 713. Section 711 requires shareholder approval, with certain exemptions, for options granted or to be granted to officers, directors or key employees, as a prerequisite to Exchange approval of applications to list additional shares reserved for such options. Similarly, section 712 requires

shareholder approval for an acquisition of stock or assets of another company, under certain circumstances,⁷ as a prerequisite to the Exchange's approval of applications to list additional shares to be issued as sole or partial consideration for an acquisition of the stock or assets of another company. Finally, section 713 requires shareholder approval as a prerequisite for Exchange approval of applications to list additional shares to be issued in connection with a transaction involving the sale or issuance by the company of common stock (or securities convertible into common stock) at a price less than the greater of book or market value which together with sales by officers, directors or principal shareholders of the company equals 20% or more of presently outstanding common stock. Section 713 also states that the Exchange should be consulted whenever a company is considering issuing a significant percentage of its shares (in a private offering), to ascertain whether shareholders' approval will be required under this section.

Although, as discussed above, the Exchange's general listing criteria address conflicts of interest in determining the listing eligibility of a company, several of the specific conflicts of interest provisions applicable in determining the listing eligibility of a REIT, as set forth in section 114, are not contained in the Exchange's general listing requirements. First, section 114(d)(i)C limits the total operating expenses of a REIT allowable in any fiscal year, except in situations where the independent trustees find that, based on such unusual or non-recurring factors as they deem sufficient, a higher level of expenses is justified for such year. This Section provides that a ceiling for yearly operating expenses shall be fixed at the greater of 2% of the trust's average invested assets or 25% of its net income for that year. Therefore, this Section in effect limits the amount of compensation which may be paid by the trust to its advisors, affiliates, or third parties.

* Shareholder approval is required

(a) if any individual director, officer or substantial shareholder of the listed company has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction and the present or potential issuance of common stock, or securities convertible into common stock, could result in an increase in outstanding common shares of 5% or more; or

(b) where the present or potential issuance of common stock, or securities convertible into common stock, could result in an increase in outstanding common shares of 20% or more.

Similarly, the Exchange's general listing criteria do not address listing requirements relating to advisory contracts entered into by a trust, as currently set forth in section 114(d)(i)D. Section 114(d)(i)D provides that any advisory contract entered into by a REIT prior to the initial public offering shall be for a period not longer than three years, and any advisory contract entered into thereafter shall be for a period not longer than one year. This Section also provides that the trustees or a majority of the holders of outstanding shares of beneficial interest of a REIT may at any time, upon written notice, terminate an advisory contract.

Finally, the Exchange's general listing criteria do not specifically address the situation where a trust adviser, or affiliates of its adviser, are engaged in activities which may be competitive with the trust. In contrast, section 114(d)(iii) requires a trust to enter into an agreement⁸ with the Exchange, granting certain rights to the trust if its adviser or affiliates of its adviser become engaged in activities which may be considered in competition with the trust.

The Exchange has stated that it wants to repeal the special listing criteria for REITs because it is the only marketplace which has such special listing criteria. The Exchange believes that, due to section 114, it is placed at a competitive disadvantage in attracting REITs for listing on the Amex. More specifically, REITs have evolved to the point where they are administered mainly by large real estate affiliates. The Exchange believes that the provisions in section 114 governing the advisory fees and REIT expenses dissuade REITs with large affiliates from listing with the Amex. Therefore, the Exchange believes that, in light of the changing nature of REITs and their administrators, and the competitive disadvantage at which the Exchange is placed by the application of the section 114 criteria, the listing eligibility of REITs should be determined by application of the Exchange's basic listing criteria.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,⁹ and the rules and regulations thereunder. Despite NASAA's concerns, the Commission believes that the Exchange's listing criteria regarding conflicts of interest

⁸ See Form SD-7 of the Company Guide.

⁹ 15 U.S.C. 78f (1982).

and independent directors, as discussed above and as set forth in sections 120, 121, 711, 712(a), 713 and Form SD-1 of the Company Guide, will provide protection against self-dealing by REIT trustees, officers, or advisors of the trust, or anyone affiliated with such persons in a manner similar to most of the REIT special interest provisions. Furthermore, the repeal of the Amex's special listing criteria for REITs will lessen existing burdens on competition between the AMEX, NASD, and NYSE for listings. No other marketplace has special evaluative criteria for REITs. In this regard, the Commission notes that both the NASD and the NYSE have indicated to Commission Staff that their basic listing criteria has proven adequate in addressing conflict of interest situations with regard to REITs.¹⁰ Moreover, the changes in the REIT quantitative standards would be very similar to the general Exchange listing standards. Therefore, the Commission believes that the Exchange's basic financial and general corporate governance provisions for listing securities will adequately protect investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹¹ that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Dated: September 23, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-22396 Filed 9-28-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26110; File No. SR-NSCC-88-8]

Proposed Rule Change by National Securities Clearing Corp. Relating to a Modification to National Securities Clearing Corporation's ("NSCC") Rule 52 Concerning Transmission of Mutual Fund Customer Account Data

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 12, 1988 NSCC filed

with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Modify NSCC Rule 52 by adding a new section 16 as follows: *Italics indicate additions.*

16. NETWORKING

The Corporation may provide a service to enable Settling Members and Fund Members to transmit mutual fund customer account data between themselves, which service shall be known as NETWORKING. Such customer account data if submitted must be transmitted in such formats and by such times as established by the Corporation from time to time. Submission of such customer account data to the Corporation shall not relinquish, extinguish or affect any legal or regulatory rights or obligations of the Settling Member or Fund Member pertaining to be customer accounts. The Corporation will not be responsible for the completeness or accuracy of any customer account data received from or transmitted to a Settling Member or Fund Member nor for any errors, omissions or delays which may occur in the absence of cross negligence on the Corporation's part, in the transmission of such customer account data to or from a Settling Member or Fund Member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide a service to participants to enable information

relating to mutual fund customer accounts to be transmitted between the parties in a centralized, automated format. Since the service will allow parties to mutual fund transactions to better serve their customers, it is consistent with the requirements of the Securities Exchange Act of 1934 as amended (the "Act").

B. Self-Regulatory Organization's Statement on the Burden on Competition

NSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The proposed rule change was developed in close cooperation with the Investment Company Institute and its members. NSCC will notify the Securities and Exchange Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such data if it finds such longer period to be appropriate and published its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in

¹⁰ In a telephone conversation between Sharon Itkin, Attorney, Division of Market Regulation, SEC and Paul Wyciskala, Managing Director, NYSE, on July 19, 1988. The NYSE indicated that REITs generally meet the NYSE's standards and that the Exchange's basic listing criteria adequately address conflict situations. Similarly, in a conversation between Division staff and NASD staff, on July 19, 1988, the NASD indicated that there is no need for special listing criteria for REITs traded over NASDAQ.

¹¹ 15 U.S.C. 78s(b)(2) (1982).

¹² 17 CFR 200.30-3(a)(12) (1986).

accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number, SR-NSCC-88-8 and should be submitted by October 20, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 23, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-22395 Filed 9-28-88; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments in Connection with Presidential Review of Exclusion Order Under Section 337; Minoxidil Powder, Salts and Compositions for Use in Hair Treatment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for public comments on the exclusion order issued by the U.S. International Trade Commission (Commission) in *Certain Minoxidil Powder, Salts and Compositions for Use in Hair Treatment*, Inv. No. 337-TA-267.

SUMMARY: On September 23, 1988, the USITC referred to the President for review its determination that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), in the importation into the United States, and in the sale, of minoxidil in any form, including powder, salts and compositions thereof, which directly, contributorily, or by inducement infringe claims of U.S. Letters Patent 4,139,619 and/or claims of U.S. Letters Patent 4,596,812 owned by the Upjohn Company of Kalamazoo, Michigan. As this investigation was decided under section 337 as amended by the Omnibus Trade and Competitiveness Act of 1988, the USITC decided that it was unnecessary for the complainant to demonstrate injury or that the industry in the United States was efficiently and economically operated.

The USITC issued a general exclusion order directing the U.S. Customs Service to exclude from entry in the United States all imports of minoxidil in any form, including powder, salts and compositions thereof, which directly,

contributorily, or by inducement infringe claims of U.S. Letters Patent 4,139,619 and/or claims of U.S. Letters Patent 4,596,812. Finally, the USITC found that public interest considerations did not preclude relief in this case.

Under section 337(g), the President, for policy reasons may disapprove the Commission's determination within 60 days following receipt of the determination and record. If disapproved by the President, the determination, and any order issued under its authority, would be without force or effect. The President also may approve the Commission's determination rendering the determination and order final on the date that the Commission receives notice of the approval. If the President takes no action to approve or disapprove the determination and order, they become final automatically following the 60-day review period.

Interested parties may submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding this investigation. Parties commenting on domestic policy issues should specifically refer to the portion of the Commission's record related to that issue. If the domestic policy issue was not raised before the Commission, parties should provide a rationale for that omission.

Comments may not exceed 15 letter-sized pages, including attachments. Parties must provide twenty copies of the submission to the Secretary, Trade Policy Staff Committee, Room 523, 600 17th Street, NW., Washington, DC 20506. All submissions must be received by close of business, Wednesday, October 5, 1988.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Associate General Counsel, Office of the U.S. Trade Representative, (202) 395-3432.

Sandra J. Kristoff,

Chairwoman, Trade Policy Staff Committee.

[FR Doc. 88-22402 Filed 9-28-88; 8:45 am]

BILLING CODE 3190-01-M

Request for Public Comments in Connection With Presidential Review of Exclusion Order Under Section 337; Nonwoven Gas Filter Elements

AGENCY: Office of the United States Trade Representative.

ACTION: Request for public comments on the exclusion order issued by the U.S. International Trade Commission (Commission) in *Certain Nonwoven Gas Filter Elements*, Inv. No. 337-TA-275.

SUMMARY: On September 2, 1988, the USITC referred to the President for review its determination that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), in the importation into the United States, and in the sale, of certain nonwoven gas filter elements because of infringement of certain claims of U.S. Letters Patent 4,056,375 owned by the Freudenberg Nonwovens of Chelmsford, Massachusetts. The USITC found that this unfair act had the effect or tendency to destroy or substantially injure an efficiently and economically operated industry in the United States.

The USITC issued an order directing the U.S. Customs Service to exclude from entry in the United States imports of certain nonwoven gas filter elements that infringe claims of U.S. Letters Patent 4,056,375 manufactured by or on behalf of Filtrair, BV of Herenveen, The Netherlands, unless the product is entered under license from the patent owner.

Under section 337(g), the President, for policy reasons may disapprove the Commission's determination within 60 days following receipt of the determination and record. If disapproved by the President, the determination, and any order issued under its authority, would be without force or effect. The President also may approve the Commission's determination rendering the determination and order final on the date that the Commission receives notice of the approval. If the President takes no action to approve or disapprove the determination and order, they become final automatically following the 60-day review period.

Interested parties may submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding this investigation. Parties commenting on domestic policy issues should specifically refer to the portion of the Commission's record related to that issue. If the domestic policy issue was not raised before the Commission, parties should provide a rationale for that omission.

Comments may not exceed 15 letter-sized pages, including attachments. Parties must provide twenty copies of the submission to the Secretary, Trade Policy Staff Committee, Room 523, 600 17th Street, NW., Washington, DC 20506. All submissions must be received by close of business, Wednesday, October 5, 1988.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Associate General

Counsel, Office of the U.S. Trade Representative (202) 395-3432.
Sandra J. Kristoff,
Chairwoman, Trade Policy Staff Committee.
[FR Doc. 88-22403 Filed 9-28-88; 8:45 am]
BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

[Order 88-9-49, Docket 45845]

Order Instituting United States-Argentina All-Cargo Exemption Proceeding

AGENCY: Department of Transportation.
ACTION: Institution of the *United States-Argentina All-Cargo Exemption Proceeding* and dismissal of certificate applications by four U.S. carriers to provide all-cargo scheduled service between the United States and Argentina, Order 88-9-49, Docket 45845.

SUMMARY: U.S. air carriers can operate no more than eight all-cargo, scheduled round-trip frequencies per week between the United States and Argentina with narrow-body aircraft or their wide-body equivalents under the terms of a U.S.-Argentina Memorandum of Consultation. After considering the all-cargo service of the existing U.S. carrier in this market, four weekly frequencies remain available for U.S. carriers. The Department has decided to institute a show-cause exemption proceeding to select a U.S. carrier(s) to operate the remaining all-cargo frequencies under short-term exemption authority.

The Department is also dismissing the certificate applications filed by Evergreen International Airlines, Federal Express Corporation, Florida West Airlines, and United Parcel Service for long-term authority to the extent that these applications request Argentina authority. In addition, the Department is consolidating an exemption application of Arrow Air for all-cargo Argentina service into this *Proceeding*.

DATES: Applications, supporting information and petitions for reconsideration are due no later than October 19, 1988. Answers are due not later than October 31, 1988.

ADDRESS: Applications, supporting information and petitions for reconsideration should be filed in Docket 45845 addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590, and should be served on all parties in Docket 45845.

Dated: September 23, 1988.

Gregory S. Dole,
Acting Assistant Secretary for Policy and International Affairs.
[FR Doc. 88-22344 Filed 9-28-88; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 160-406 MHz Emergency Locator Transmitters (ELT); meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the 11th meeting of RTCA Special Committee 160 on 406 MHz Emergency Locator Transmitters (ELT) to be held October 27-28, 1988, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks, (2) approval of minutes of the 10th meeting, (3) review and discuss EUROCAE WG-29 activities, (4) report on problems of frequency interference in the 406 MHz band, (5) review of task assignments from last meeting, (6) review of the sixth draft of the MOPS, (7) task assignments, (8) other business, and (9) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 21, 1988.

Goffrey McIntyre,
Designated Officer.
[FR Doc. 88-22306 Filed 9-28-88; 8:45 am]
BILLING CODE 4910-13-M

Informal Airspace Meetings; Washington et al.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of informal airspace meetings.

SUMMARY: This notice announces informal airspace meetings to discuss the following: 1. Alteration of the Seattle, WA, Terminal Control Area

(TCA); 2. establishment of the Springfield, MO, Airport Radar Service Area (ARSA); 3. alteration of the Washington, DC, TCA; 4. establishment of the Baltimore-Washington International Airport, MD, TCA, and 5. establishment of the Dulles International Airport, VA, TCA.

DATES: The informal airspace meetings will be held on November 29, 30 and December 2, 1988, for Seattle, WA, TCA; on December 14, 1988, for Springfield, MO, ARSA, and on December 5, 8, and 12, 1988, for Washington, DC, TCA; Baltimore-Washington International Airport, MD, TCA, and Dulles International Airport, VA, TCA.

ADDRESSES: The informal airspace meeting locations are as follows:

Seattle, WA, TCA

Date: November 29, 1988.

Time: 7:00 p.m.

Location: Sea-Tac Auditorium, Sea-Tac International Airport, Seattle, WA.

and

Date: November 30, 1988.

Time: 7:00 p.m.

Location: Clover Park High School Auditorium, 11023 Gravelly Lake Drive, S.W., Tacoma, WA.

and

Date: December 2, 1988.

Time: 7:00 p.m.

Location: Everett Community College, Parks Building, Multipurpose Room, 801 Wetmore Avenue, Everett, WA.

Springfield, MO, ARSA

Date: December 14, 1988.

Time: 7:30 p.m.

Location: Southwest Missouri State College, Temple Hall, Room 1, 901 South National, Springfield, MO.

Washington, DC, TCA; Baltimore-Washington International Airport, MD, TCA, and Dulles International Airport, VA, TCA

Date: December 5, 1988.

Time: 7:00 p.m.

Location: Quality Inn, 700 Quality Court, Frederick, MD.

and

Date: December 8, 1988.

Time: 7:00 p.m.

Location: Chantilly High School Auditorium, 42 Stringfellow Road, Chantilly, VA.

and

Date: December 12, 1988.

Time: 7:00 p.m.

Location: Catonsville Community College, 800 South Ruling Road, Catonsville, MD.

FOR FURTHER INFORMATION CONTACT: Betty Harrison, Airspace Branch (ATO-

240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

Issued in Washington, DC, on September 22, 1988.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-22364 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Southern Tier Expressway—Corning Area—Painted Post to State Route 414, Steuben County, NY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a final environmental impact statement will be prepared for a proposed highway project on the Southern Tier Expressway—Corning area, Painted Post to State Route 414, Steuben County.

FOR FURTHER INFORMATION CONTACT: Frank H. Platt, District Engineer, Federal Highway Administration, Leo W. O'Brien Federal Building, Ninth Floor, Clinton Avenue and Pearl Street, Albany, New York 12207, Telephone (518) 472-2860.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation, will prepare a supplement to the Final Environmental Impact Statement (EIS) on a proposal to construct a portion of the Southern Tier Expressway through the Village of Riverside, City of Corning and Town of Corning, Steuben County, New York. The original EIS for the arterial highway (FHWA-NYS-EIS-72-13F) was approved on September 17, 1973.

This segment of the Southern Tier Expressway proposes to close the gap between previously completed sections of the Expressway in the Village of Painted Post to the west and the Post Creek to Chemung-Steuben County line section to the east. The new project is proposed on new location through open space areas in the City of Corning and Town of Corning and through some residential and commercial locations of the City of Corning, Town of Corning

and the Village of Riverside. The project length is 2.8 miles. The completion of the Expressway is considered necessary to close the gap in the Expressway system in Steuben County, to provide relief of current highway capacity and accident problems through the City of Corning, and to provide for economic development in the Chemung River Valley in the Painted Post-Riverside, Corning area.

The location for the Expressway was approved with the stipulation that an alignment in the Winfield Street-Pine Hill area not previously discussed in the original EIS be investigated to removed the alignment from the center of a residential neighborhood in the City of Corning. Substantial changes in the state-of-the-art analysis of environmental issues and discussion of viable design alternatives in the arterial corridor warrant a detailed reanalysis of impacts within the corridor.

Alternatives under consideration are a combination of sixteen design alternatives to determine the best location and degree of access to the expressway to close the gap in the existing highway system.

The project has been the subject of extensive previous coordination between interested agencies. A series of public information meetings were held to review project location and potential impacts in the various neighborhoods. A formal public hearing for the project is anticipated in the fall of 1988. Public notice will be given of the time and place of the hearing. The draft supplemental EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting will be held.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: September 20, 1988.

Harold J. Brown,

Division Administrator, Albany, New York.

[FR Doc. 88-22271 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-22-M

UNITED STATES INFORMATION AGENCY

Grants Program for Private Not-for-Profit Organizations in Support of International Educational and Cultural Activities

The deadline for submission of a statement of interest in the subject program has been extended to five working days from the date of this announcement. The original announcement was published in the *Federal Register* of August 26, 1988. Following is a repeat of the information published in the original announcement, with a new deadline date specified.

The United States Information Agency's Division for the Study of the U.S. seeks to secure the services of an institution to coordinate and implement five thirty-day study programs in the field of American studies for foreign secondary school educators. The programs will take place in the spring and fall of 1989.

The Division for the Study of the U.S. provides opportunities for foreign education ministry officials, teacher trainers, textbook writers, and curriculum developers to receive information, training, and resource materials which will enable them to more accurately and effectively teach about the U.S. in the secondary schools of their home countries.

Interested programming institutions in metropolitan Washington, DC, with experience in international education, in particular the social sciences, should submit a request for complete application materials to Mr. Richard Taylor at the following address no later than 5 working days from the date of this notice. The Division for the Study of the U.S. will then forward a set of materials which contain the proposal guidelines and project prospectus. This announcement is not a solicitation for proposals. It requests letters of interest from potential grantee institutions. Information on proposal submission deadlines will be forwarded with the application materials.

United States Information Agency,
Office of Academic Programs,
American Studies Branch, E/AAS—
Attn: Richard Taylor, Room 256, 301
4th Street, SW., Washington, DC
20547, Phone: (202) 485-2578

Dated: September 21, 1988.

Barry Ballow,

Chief, Division for the Study of the U.S.

[FR Doc. 88-22409 Filed 9-28-88; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register

Vol. 53, No. 189

Thursday, September 29, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, October 5, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Proposals regarding fees for directors of Federal Reserve Banks. (This item was originally announced for a closed meeting on September 16, 1988.)
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: September 27, 1988.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 88-22550 Filed 9-27-88; 3:34 pm]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Friday, September 30, 1988.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED:

Consideration of whether to begin rulemaking proceedings to revise the Transistor Rule.

CONTACT PERSON FOR MORE

INFORMATION: Susan B. Ticknor, Office of Public Affairs; (202) 326-2179. Recorded Message: (202) 326-2711. Donald S. Clark,

Secretary.

[FR Doc. 88-22398 Filed 9-27-88; 9:36 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 3, 1988.

A closed meeting will be held on Tuesday, October 4, 1988, at 2:30 p.m. An open meeting will be held on Friday, October 7, 1988, at 10:00 a.m. in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17

CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 4, 1988, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

Institution of injunctive actions.

Settlement of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Friday, October 7, 1988, at 10:00 a.m. will be:

Consideration of whether to publish for comment a release proposing alternative versions of new Rule 144A that would provide a safe harbor from the registration requirements of the Securities Act of 1933 for resale of securities to institutional investors. Additionally, the Commission will consider whether to publish for comment a proposal to amend Rules 144 and 145 under the Securities Act, under which the holding period for restricted securities would commence at the time the securities are sold by the issuer or its affiliate. For further information, please contact Sara Hanks or Samuel Wolff at (202) 272-3246, or as to changes to Rules 144 and 145, Catherine Dixon at (202) 272-2573.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Max Berueffly at (202) 272-2400.

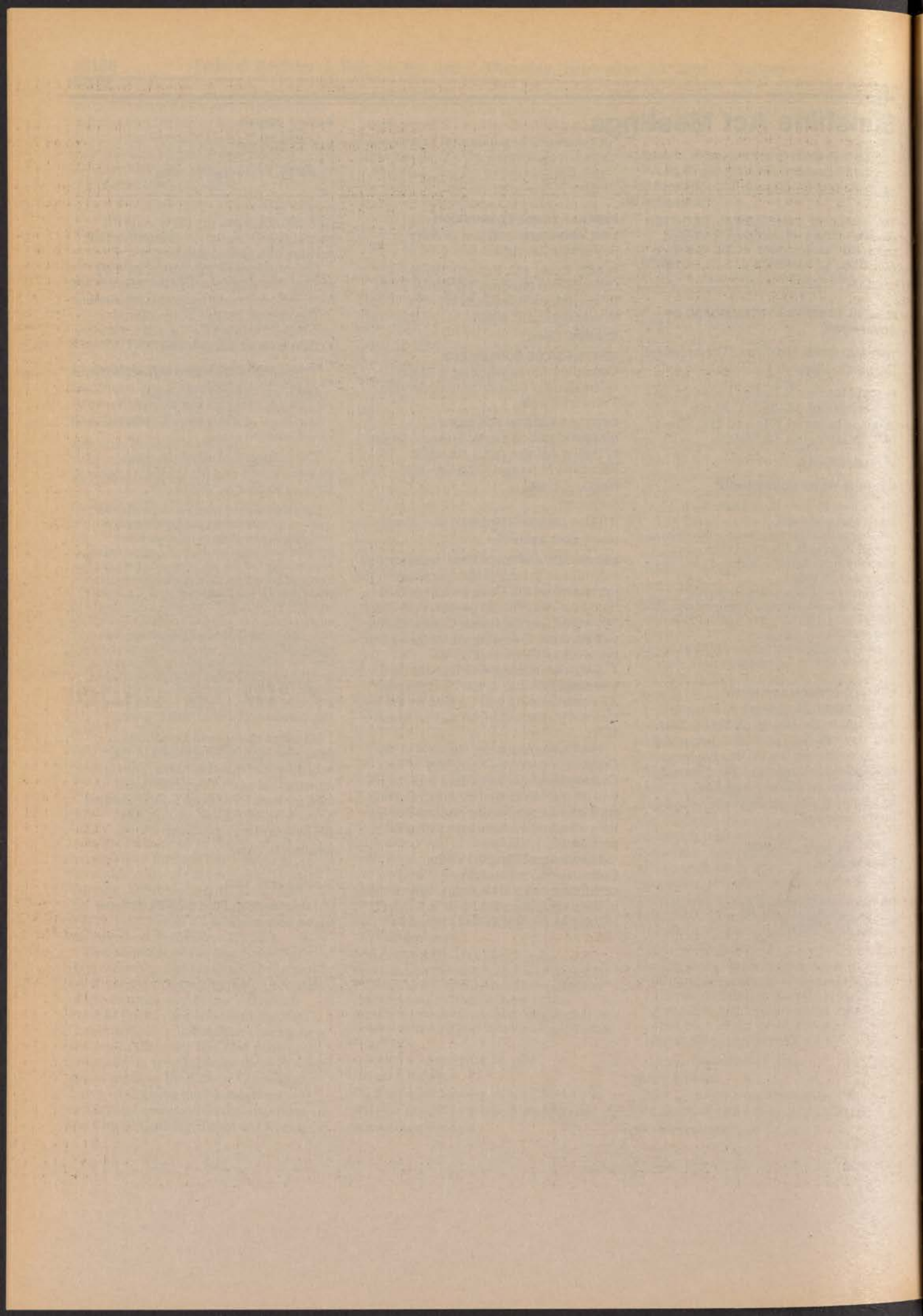
Jonathan G. Katz,

Secretary.

September 26, 1988.

[FR Doc. 88-22551 Filed 9-27-88; 3:34 pm]

BILLING CODE 8010-01-M



Federal Register

Thursday
September 29, 1988

Part II

Department of Labor

Occupational Safety and Health
Administration

29 CFR Part 1910

Access to Employee Exposure and
Medical Records; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-112E]

Access to Employee Exposure and Medical Records

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final occupational safety and health regulation, promulgated today as a revised 29 CFR 1910.20, provides for employee, designated representative, and OSHA access to employer-maintained exposure and medical records relevant to employees exposed to toxic substances and harmful physical agents. This rule incorporates essentially the same provisions as those promulgated May 23, 1980 (45 FR 35212), with the major exceptions that: (1) First aid records and medical records of short-term employees are exempted from records retention requirements; (2) the microfilm storage of all employee X-rays except chest X-rays is permitted; (3) employer trade secrets are provided additional protection and are made to conform with OSHA's new Hazard Communication standard; (4) union representatives are required to show an occupational health need for requested records when seeking unconsented access to employee exposure records; and (5) no industries are treated separately with respect to trade secret disclosure.

EFFECTIVE DATE: This final rule shall become effective November 28, 1988, except for the recordkeeping requirements in paragraphs (d), (e), (f)(2), (f)(8), (f)(12), (g) and (h) which shall become effective upon approval by the Office of Management and Budget. A notice of the effective date of these requirements will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Department of Labor, OSHA Office of Public Affairs, Third Street and Constitution Avenue, NW., Room N-3641, Washington, DC 20210 (202-523-8151). Copies of this document may be obtained at any time by request to the OSHA Office of Public Affairs at the address or telephone number listed above, or by contacting any OSHA regional or area office.

SUPPLEMENTARY INFORMATION:

Recordkeeping Requirements

The recordkeeping requirements in the unamended rule were approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501, *et seq.* The OMB approval number is 1218-0065 which expires in November, 1988. OSHA is currently in the process of submitting the recordkeeping requirements in the final rule for OMB approval. The existing standard, which has paperwork clearance, remains in effect until the new standard becomes effective and receives paperwork clearance.

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I. Introduction

A. Background

On May 21, 1980, the Occupational Safety and Health Administration

(OSHA) issued its rule entitled Access to Employee Exposure and Medical Records. 29 CFR 1910.20; 45 FR 35212 *et seq.* (hereinafter "Records Access" rule). The rule imposed three major obligations on employers. First, employers were required to preserve and maintain exposure and medical records pertinent to an employee's occupational exposure to toxic substances or harmful physical agents. 29 CFR 1910.20(d). Generally, employee exposure records and analyses based on exposure or medical records were to be retained for thirty years. 29 CFR 1910.20(d)(1)(ii) and (iii). Employee medical records were to be retained for the duration of employment plus thirty years. 29 CFR 1910.20(d)(1)(i).

Second, throughout these time periods the employer was required to ensure access to pertinent exposure records by the exposed employee, fellow employees exposed or potentially exposed to similar job hazards, designated employee representatives, and OSHA. 29 CFR 1910.20(e). Access to medical records was also to be ensured to the employee who is the subject of the records, and to OSHA. Likewise, access to medical records was required to be ensured to an employee's designated representative, such as the employee's collective bargaining agent, but, because of the privacy interests involved, only if the employee has provided specific written consent for such access. 29 CFR 1910.20(e)(2)(ii)(B); *cf.* § 1910.20(c)(10).

Employee and designated representative access was to be provided at a reasonable time, place, and manner, but in no event later than fifteen (15) days after the request is made. 29 CFR 1910.20(e)(1). OSHA access was required to be provided immediately upon request, 29 CFR 1910.20(e)(3), but because of the personal privacy interests affected by access to medical records, OSHA's access to such records was further conditioned upon the agency's compliance with the procedures and protections which were simultaneously promulgated as 29 CFR 1913.10.

Third, upon entering into employment and annually thereafter, employees were to be informed by their employers of their rights under the regulation and of the requisite procedures for exercising those rights. 29 CFR 1910.20(g).

In issuing the regulation, the Secretary considered its potential impact on trade secrets. 29 CFR 1910.20(f). Although disclosure upon request of identities of toxic substances, levels of exposure, and health status data was required, the

employer was allowed to delete any other trade secret data which disclosed manufacturing processes or the percentage of a chemical substance in a mixture. In addition, the provisions of the final rule permitted employers to condition access to trade secrets upon basic written agreements not to misuse this information.

On November 25, 1983 (48 FR 53280), OSHA promulgated its new final Hazard Communication standard, codified at 29 CFR 1910.1200. The standard requires chemical manufacturers and importers to assess the hazards of chemicals which they produce or import, label containers with the hazards of the chemicals they ship, and supply downstream users with material safety data sheets. All employers in the manufacturing sector, SIC Codes 20 through 39, are to provide information to their employees concerning the hazards of chemicals the employees are exposed to. These employers must not remove hazard labels from containers, must save and provide employee access to material safety data sheets, and train employees in the hazards of the chemicals present. In addition, distributors of hazardous chemicals are required to ensure that containers they distribute are properly labeled, and that material safety data sheets are provided to their customers in the manufacturing sector. An effort has been made to make provisions of the employee exposure and medical records access rule as nearly identical as possible to those found in the hazard communication standard in order to provide uniformity and policy consistency.

B. Litigation

The May 1980 regulation has been the subject of litigation in several courts. On May 21, 1980, the Industrial Union Department, AFL-CIO, petitioned the United States Court of Appeals for the District of Columbia Circuit to review the rule pursuant to section 6(f) of the OSH Act, 29 U.S.C. 655(f). *Industrial Union Dept. AFL-CIO v. Marshall*, No. 80-1550.

The Chemical Manufacturers Association and the Chamber of Commerce of the United States later intervened in that lawsuit. In July 1980, a number of individuals and two trade associations, the Association of Diving Contractors and the Louisiana Chemical Association, subsequently petitioned the Fifth Circuit Court of Appeals under the same section 6(f) review provision. These cases were transferred to the D.C. Circuit under 28 U.S.C. 2112(a) and consolidated with the pending IUD case. These cases are currently in abeyance to permit this reconsideration of the

regulation to be completed. Also in abeyance in the D.C. Circuit is *National Constructors Association v. OSHA*, No. 80-1820, a challenge to the regulation's application to the construction industry.

A separate challenge to the rule was filed in January 1981 by the trade associations representing the flavor and fragrance industries in the United States District Court for the District of Maryland (Civ. Action Nos. Y-81-66, Y-81-67). This case was withdrawn and ultimately dismissed when a partial administrative stay was issued covering these industries.

In addition, the Louisiana Chemical Association and several individuals challenged the rule in July 1980 in the United States District Court for the Western District of Louisiana, claiming the Court had jurisdiction by reason of, *inter alia*; 28 U.S.C. 1331 and 1337. The District Court originally dismissed the case on the basis that review of OSHA regulations was vested in the Circuit Court of Appeals. The case was appealed to the Fifth Circuit Court of Appeals. The Fifth Circuit ultimately held that the rule was a section 8 regulation and therefore the District Court had jurisdiction to consider the case. *Louisiana Chemical Association v. Bingham*, 657 F.2d 777 (5th Cir. 1981). It therefore returned the case to the District Court to consider it on the merits.

On November 5, 1982, the United States District Court for the Western District of Louisiana upheld the validity of OSHA's records access regulation. *Louisiana Chemical Association v. Bingham*, 550 F. Supp. 1136 (W.D. La. 1982). This decision was affirmed by the Fifth Circuit in *Louisiana Chemical Association v. Bingham*, 731 F.2d 280 (5th Cir. 1984).

C. Administrative Stay for Construction

On April 28, 1981, OSHA administratively stayed the records access rule with respect to the construction industry (46 FR 23740). The stay was granted to allow a review of the regulation by the Advisory Committee on Construction Safety and Health (the "Construction Advisory Committee"), which had not been consulted during the original development of the rule. The terms of the stay required that employers in the industry: (1) Continue to preserve exposure and medical records and make them available to OSHA, and (2) make employee medical records available to employees. The April 28 notice also requested other interested parties to submit written comments concerning the impact of the records access standard on the construction industry. Docket H-

112C was established to receive these comments.

The Construction Advisory Committee met on June 10-12, 1981, and, after considering the impact of the records access rule on the construction industry, voted that the stay should be lifted, and further offered 13 suggestions and recommendations concerning the standard (Exs. 3-62, 3-63). OSHA also received 45 written comments concerning the issues raised by the stay.

After a review of the comments submitted into Docket H-112C and of the recommendations made by the Construction Advisory Committee, OSHA lifted the administrative stay on September 15, 1981 (46 FR 45758). In this notice OSHA dealt specifically with the 13 recommendations submitted by the Construction Advisory Committee and stated further that the issue of the appropriateness of the records access rule for construction would be considered as part of its review of the entire records access regulation in general.

D. Proposed Interim Modification

On August 7, 1981 (46 FR 40490), OSHA published interpretations of the records access regulation concerning: (1) The 15-day limit for providing records (§ 1910.20(e)(1)(i)), (2) the coverage of exposure records of "similarly exposed employees" (§ 1910.20(e)(2)(i)(B)), (3) the coverage of records privileged from discovery, and (4) the sanctions permitted for employee breaches of confidentiality agreements (§ 1910.20(f)(3)). In this notice OSHA also announced a partial stay of the records access rule for the flavor and fragrance industry.

OSHA also published on August 7 a proposed interim modification of the regulation to permit employers to include liquidated damages clauses or the like in confidentiality agreements while they may require of employee designated representatives prior to disclosing toxic substance information which is a trade secret (46 FR 40492). This notice requested interested parties to submit written comments concerning this issue. Docket H-112D was established to receive these comments. 46 written comments were subsequently submitted. This proposed interim modification was later merged into OSHA's overall reconsideration of the records access rule (47 FR 20429).

E. The Proposal

Because the record access regulation raised complex policy and legal questions with respect to several of its provisions, the Secretary determined

that it was an appropriate subject for reconsideration in light of current policies and experience. Accordingly, on July 13, 1982, OSHA published its proposal to modify the Access to Employee Exposure and Medical Records rule (47 FR 30420). The proposal was based on all comments and information submitted to OSHA since the regulation was originally promulgated in May 1980 (45 FR 35212 *et seq.*), including the comments contained in Dockets H-112C and H-112D. The proposal gave interested parties until September 14, 1982 to submit comments, views, and arguments on any issues raised by the proposal. Comments were specifically invited on: (1) The definition of "employee"; (2) the definition of "exposure"; (3) the definition of "toxic substance"; (4) the preservation requirements for employee exposure and medical records; (5) the prohibition on the microfilm storage of X-rays; (6) union access to exposure records; (7) trade secret protection provisions; and (8) the provision of regulatory relief for small businesses. Docket H-112E was established to receive all evidence concerning the proposed modifications, and a total of 116 comments were received.

F. The Hearings

The July 13 proposal also announced a schedule of informal public hearings. These hearings were held from October 5, 1982 through October 13, 1982 in Washington, DC, and were presided over by Administrative Law Judge Frank J. Marcellino. All hearing participants were afforded the opportunity to present oral testimony and to question other witnesses. A total of 20 interested individuals and organizations testified at these hearings, and five additional participants submitted written testimony. Hearing participants were given until November 12, 1982, to submit additional evidence and factual material, and until December 13, 1982, to submit post-hearing comments or arguments.

G. The Record

The public record on the proposed regulation was certified by Judge Marcellino on January 10, 1983. The record consists of all material submitted to the OSHA Docket Office, Docket No. H-112E, by either OSHA or the public, including: (1) Comments on the July 13 proposal; (2) background materials collected by OSHA; (3) notices of intent to appear at the public hearings; (4) verbatim transcripts of the public hearings; (5) hearing exhibits; and (6) post-hearing comments. Dockets No. H-112C and H-112D have also been

incorporated by reference into the H-112E record. OSHA also relies on the original H-112 Docket, which was compiled at the time of the rulemaking for the May 1980 regulation, in issuing this modified rule.

Copies of the official list of items in the total record, as well as the items themselves, are available from the OSHA Docket Office, Docket No. H-112E, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone 202-523-7894.

II. Legal Authority

This modification of OSHA's Access to Employee Exposure and Medical Records Regulation, 29 CFR 1910.20, is being issued under the authority granted to the Secretary in section 8 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657. Authority for the standard may be found in sections 8(g)(2) and 8(c)(1) of the Act, 29 U.S.C. 657(g)(2), 657(c)(1). Section 8(g)(2) reads as follows:

The Secretary * * * shall * * * prescribe such rules and regulations as he may deem necessary to carry out (his) responsibilities under this chapter, including rules and regulations dealing with the inspection of an employer's establishment.

Section 8(c)(1) states:

Each employer shall make, keep and preserve, and make available to the Secretary * * * such records regarding his activities relating to this chapter as the Secretary * * * may prescribe by regulations as necessary or appropriate for the enforcement of this chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses.

The May 1980 standard was issued under both section 6 and section 8 authority. The issue of whether 29 CFR 1910.20 could legitimately be characterized as an occupational safety and health standard under section 6, which would determine whether it was properly challengeable in a district court or the courts of appeals, was the subject of litigation in the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit decided that as a jurisdictional matter it could not be considered a section 6 standard but could be considered a section 8 regulation. Its reasoning was that Congress apparently intended standards to aim toward correction of specific and already identified hazards, and that the records access standard does not do so. Rather, its function, as the Court stated it, is possible detection, over a long period, of significant risks not yet covered by standards. In addition, it fits neatly within the language and history of

section 8, which authorizes issuance of enforcement and detection regulations. *Louisiana Chemical Association, et al. v. Bingham, et al.*, 657 F.2d 777 (1981).

On remand, the District Court for the Western District of Louisiana held on the merits that the promulgation of 29 CFR 1910.20 was in fact a valid exercise of the Secretary's section 8 general rulemaking authority. *Louisiana Chemical Association, et al. v. Bingham, et al.*, 550 F. Supp. 1136 (1982). The Court held:

Even a cursory examination of the Act's overarching policy and the means by which it may be achieved make plain the fact that the records access rule bears at least a reasonable relation to that purpose. The rule will serve to establish a primary data base regarding long-term exposure to toxic substances and harmful physical agents. Such a pool of information will obviously be of great utility to medical/industrial research in the isolation and identification of latent occupational diseases and health hazards yet unknown. Therefore, the records access rule aids in the research effort noted in 29 U.S.C. § 651(b)(5); provides an additional means of discovering latent diseases and establishing causal connections between diseases and work in environmental conditions within the meaning of (b)(6); establishes an additional reporting procedure as outlined in (b)(12); and serves to encourage labor-management efforts to reduce disease arising out of employment in accordance with (b)(13). Given the insidious nature and long-term effects of many latent occupational diseases, a rule which establishes a data base for medical research, as does the record access rule bears more than a mere reasonable relation to the major policy goal of the Act. The records access rule is quite directly related to the goals of assuring "safe and healthful working conditions" and "preserving our human resources." (Ex. 49, pp. 5-6)

It also held that while section 8(g)(2) would by itself provide sufficient authority for the records access rule and more specific support for the regulations with respect to OSHA access to the records covered by it, is found in section 8(c)(1), 29 U.S.C. 657(c)(1).

Based on these foregoing court decisions, it is the law of the case that the Record Access rule is issued pursuant to section 8 of the Act. Therefore OSHA is promulgating these amendments to the Records Access rule pursuant to section 8. OSHA continues to conclude that the Record Access rule is important to carry out the purposes of the Act. These amendments modify 29 CFR 1910.20 in several respects, but its essential character and purpose have not changed. As before, the records access rule is designed to yield both direct and indirect improvements in the detection, treatment, and prevention of

occupational disease. To this end, employee access to exposure and medical data will enable workers and their representatives to play an important role in their own health management. The data obtained will enable an employee's personal physician to diagnose, treat and possibly prevent permanent disease. It will also serve to decrease the incidence of occupational health problems, for once an employee is informed of the identity of hazardous substances he or she faces on the job and the potential health consequences or exposure to them, the individual can minimize future exposure through prudent work practices.

Second, access to exposure and medical records by employees, their designated representatives, health professionals acting on behalf of employees, and OSHA will facilitate research to uncover patterns of health impairment and disease, and to establish causal connections between disease and exposure to particular hazards. In turn, this will enable the Secretary to effectuate the purposes of the Act, including the establishment of uniform national health and safety standards.

Third, employees can use this information to obtain implementation of new protective control measures. The use of the data may take any of several forms. Most importantly, informed employees will be in a better position to exercise their statutory rights (e.g., complaints to OSHA, participation in OSHA inspections). Employees may also marshal this information to discuss improving conditions in the workplace directly with their employers, through whatever means are available to them.

A fuller discussion of the basis for these findings may be found in the preamble to the May 1980 regulation (45 FR 35212 *et seq.*).

Because the Records Access regulation, as modified herein, is related to those statutorily sanctioned purposes, the Secretary finds that it is necessary to carry out his responsibilities under the Act. It remains therefore a valid exercise of his section 8 general rulemaking authority. Cf., *Mourning v. Family Publications Service, Inc.*, 411 U.S. 356 (1973); *Whirlpool Corp. v. Marshall*, 445 U.S. 1 (1980).

OSHA has made a conscious effort to make the provisions of the Records Access rule, as far as possible, parallel to those found in the Hazard Communication standard (29 CFR 1910.1200). The Records Access rule and the Hazard Communication standard will work together to form a comprehensive regulatory structure for

informing employees of the hazardous substances found in their workplace and the steps to be taken to control such exposures. The Hazard Communication standard requires the development of MSDS's and their communication to workers in the manufacturing sector of industry. The Records Access rule supplements the Hazard Communication standard by extending access to current MSDS's which have been retained to employees in general industry, construction and maritime.

III. Discussion of Significant Issues and Summary of the Final Regulation

This rulemaking, initiated in 1982, has addressed several important issues concerning the 1980 regulation. The decisions reflected in this revised standard reflect the evidence currently in the record. The Office of Management and Budget, in its review of the paperwork requirements of this rule, has recommended that OSHA consider whether additional rulemaking would be appropriate in order to further evaluate the effectiveness of record retention provisions of the current rule and the appropriateness of the definition of "employee" as defined by this final rule. At issue is whether OSHA's experience under the current rule points to possible improvements which could be made. More specifically, are changes necessary and appropriate to reduce the recordkeeping burdens while retaining the effectiveness of the standard?

In order to examine these issues more closely, and in the context of other Federal programs and activities, OSHA will participate in an interagency working group to examine this regulation and make recommendations, as appropriate, for revisions that may be needed to assure that the records most useful to employee health and health research purposes are retained. The recommendations of this working group will be evaluated by OSHA to determine the need for further rulemaking. In order to give OSHA sufficient flexibility to respond to the recommendations of the working group, OSHA is continuing to consider the definitions of "employee", "employee exposure records" and "toxic substance" pending receipt of the working group recommendations. Based on the working group recommendations, OSHA will either publish its final determination to retain the definitions in the existing standard or repropose new definitions as the basis for further rulemaking. In the interim, of course, pending final resolution of these definitions, the existing definitions will continue to apply.

A. Scope and Application

1. General

The 1980 regulation applied "to each general industry, maritime, and construction employer who makes, maintains, contracts for, or has access to employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents" (paragraph (b)(1)). The regulation applied to records whether or not they were related to specific occupational safety and health standards, and also applied to records created prior to the effective date of the standard, August 21, 1980. The broad scope of the 1980 regulation was a major issue in the proposal.

The issue of scope is best considered through evaluation of its three major components: (1) The number of employees covered, (2) the industries covered, and (3) the types of records covered. The latter component, the types of records covered, is directly dependent upon the definitions of "employee exposure record" and "employee medical record," and is therefore discussed in the "definitions" section below.

2. Employees Covered

The 1980 rule applies to the exposure and medical records of all employees exposed to toxic substances and harmful physical agents. Following issuance of the 1980 regulation, several commenters argued that the rule's scope was too broad. They noted that literal construction of the 1980 regulation indicated that records of employees only marginally exposed to toxic substances and arguably not at health risk from such exposures were evidently covered by the rule as long as the nature of their exposure was different from typical non-occupational exposure. For example, the concern was expressed that records of office workers who make only infrequent or sporadic visits to production areas where toxic substances or harmful physical agents are present would be subject to the retention and access provisions of the regulation (SOCMA, Ex. 3-58; Prudential, Ex. 3-31).

Responding to these concerns, OSHA proposed to limit the rule's coverage to only those employees "whose work directly involve(s) the manufacturing, processing, installation, handling, packaging, transport, disposal, or use of toxic substances, or who (are) subject to harmful physical agents (e.g., noise, ionizing and non-ionizing radiation, hypo- or hyperbaric pressure) in any

manner different from non-occupational situations; including, but not limited to, coverage of production, maintenance, transport and construction workers" (paragraph (b)(1); 47 FR 30434). This modification would have targeted the regulation at those groups of employees whose job duties typically involve substantial exposure to toxic substances or harmful physical agents. Production, maintenance, construction, and transport workers would have been covered if toxic substances or harmful physical agents were present in their workplaces, with no further inquiry necessary on whether each individual is working directly with a toxic substance or harmful physical agent. For instance, an electrician working near a welding operation on a construction site would have been covered. At the suggestion of the Advisory Committee for Construction Safety and Health, "installation" was added to paragraph (b)(1) to clarify the broad coverage of construction workers (Exs. 3-62, 3-63).

In addition, those workers whose job duties do not usually involve substantial exposures (e.g., most office workers) would not ordinarily have been covered. However, the proposed revision would have continued to provide for access to exposure and medical records of any general industry, construction or maritime employee not otherwise covered by the standard who was accidentally exposed to a toxic substance or harmful physical agent to a degree sufficient to require medical treatment.

Many employers supported the proposed changes in their written and oral submissions (Exs. 4-1, 4-7, 4-17, 4-27, 4-28, 4-30, 4-41, 4-62, 4-66, 4-68, 4-69, 4-76, 4-80, 4-92, 4-109, 4-113; Tr. 828, 1047). In general, they maintained that "the new definition of 'employee' reasonably limits the application of this regulation to those workers who are more than casually exposed to toxic substances" (AFMA, Tr. 828).

Although no estimates were submitted from industry concerning the possible cost savings of the proposed provision, testimony was submitted that "as initially promulgated, the records access rule covered too many employees to be a truly useful means of additional protection, and imposed a considerable burden on employers to maintain accurate and comprehensive records which provided reasonably rapid access" (Pennzoil, Ex. 4-30).

Employee groups and other participants responded that the proposed provision excluded many groups of employees clearly at risk from exposure to toxic substances and harmful physical agents, and who are

therefore likely to benefit from access to exposure and medical records (Exs. 4-77, 4-98; Tr. 100, 123, 144, 187, 347, 415, 471, 503, 527, 919, 1020, 1079).

To illustrate that workers not directly involved with the handling of toxic substances are potentially at risk from exposure, the ICWU gave as an example "a situation where asbestos dust due to the poor ventilation in the plant was mixed with other dust and spread throughout the plant. So there was no worker in the plant itself that was not at risk to asbestos" (ICWU, Tr. 347).

Cal/OSHA also noted that "office workers connected with manufacturing areas may become exposed to high levels of manufacturing contaminants if there are sloppy work practices" (Ex. 17, p. 10). Specifically, Cal/OSHA cited an investigation of a battery plant which found dangerous levels of lead in the front office, and a study of the Virginia kepone incident which stated that "employees had been exposed to kepone wherever they worked, rested, ate or drank within the confines of the plant." Cal/OSHA also cited a case where workers in an office building were made ill by workplace exposures:

In March of 1982, 250 state employees who work in the Bateson Building in Sacramento complained of recurring health problems involving headaches, burning eyes, and general poor health. These health complaints have been associated with noxious fumes and poor air circulation in the building. (Ex. 17, p. 10)

After considering the rulemaking record, OSHA has determined that it is appropriate to retain coverage of employees as stated in the 1980 regulation. OSHA finds insufficient evidence for categorically excluding "casually exposed" workers from the scope of the rule for purposes of providing access to the records of such workers. Because the rulemaking record is less clear with respect to the practical utility of retaining the records of "casually exposed" workers, OSHA will continue to consider this issue through participation in the working group described earlier. In the interim, the existing definition of "employee" will continue to apply. The record shows that both production line workers and executives have become ill from brief exposures to toxic substances.

3. Records Created Under Contract

The status under the 1980 regulation of records created under contract was a source of confusion to several affected parties who were concerned that employers would be held strictly liable in collateral litigation for actions by physicians not fully under their control (Ex. 62, pp. 37-46; Ex. 60, p. 3). The

proposal would have modified paragraph (b)(3) to clarify the obligations of employers who contract for exposure measurement or medical services. The proposed modification required that "each employer shall ensure that the requirements of this section are made known to physicians and others providing medical or industrial hygiene services under contract to the employer and shall make a good faith effort to ensure, by modification of the contract if necessary, that such persons comply with the preservation and access requirements of the section" (47 FR 30434).

The proposed provision was challenged by some participants. Mr. Peter Weiner (Cal/OSHA) noted that:

If an employer does not create the violation and does everything reasonably possible to modify the contract in an attempt to comply, existing case law which we have cited clearly states that the employer will not be subject to citation. (Tr. 420)

Therefore it would not be necessary to modify the regulation in response to these concerns. Mr. Robert Frase (UPIU) also testified:

We have no objection to contracting medical services out to qualified occupational health providers—in fact, care is often more objective and comprehensive when provided by independent occupational health specialists.

These specialists certainly recognize the value of maintaining records for epidemiological research. But we strongly oppose creating the option for employers to abrogate their legal and ethical responsibility to make records compiled on their employees available to these individuals and to retain those records for a period of time that makes health research feasible. (Tr. 763-764)

OSHA has determined that, under the language of the 1980 rule, employers can not be penalized if they make reasonable efforts to comply with the access rule when using contract services if such efforts fail for reasons beyond their control. This is not only a matter of OSHA interpretation but of applicable legal principles. Altering the language of the regulation, however, to conform to the proposal could result in reduced efforts to assure compliance when contract services are being used. OSHA, therefore, will retain the 1980 provision for the final rule, and to provide this clarification of its intent with respect to enforcement.

4. Industries Covered

Several trade groups have argued that certain industries ought to be exempted from coverage. In particular, employer groups in the flavor and fragrance

industries (Exs. 3-44, 3-45, 3-47, 3-48, 3-50, 3-52), the construction industry (Exs. 3-40, 3-43), and the commercial diving industry (Ex. 3-86), have argued for limited or full exemption from the provisions of the regulation. The flavor and fragrance industries were the subject of a partial administrative stay designed to protect their trade secrets (46 FR 40490-91). This stay was extended to August 15, 1983 (48 FR 6332), and was later extended to February 1, 1984 (48 FR 36576). The stay was further extended to February 1986 pending final revisions to the Access Rule (49 FR 5112, 50 FR 5752).

a. *Flavor and fragrance industries.* The flavor and fragrance industries based their justifications for exemption primarily on the following assertions: (1) The broad definition of "toxic substance" includes many food and fragrance substances which, on the basis of objective data, are demonstrated to be safe; (2) the possibility under the regulation for disclosure of valuable trade secret formulas greatly outweighs the benefits of disclosure; and (3) the Records Access rule overlaps regulation of these industries by the Food and Drug Administration (FDA) and the Department of Agriculture (USDA).

For example, the Flavor and Extract Manufacturers Association (FEMA) stated that "(T)he standard's definition of toxic substances is so broad that many traditional innocuous food ingredients (i.e., sugar, vanilla, and lemon oil) would be considered 'toxic' within the meaning of the standard. The sheer number of substances considered 'toxic' under the standard will make compliance with requests for disclosure both extremely costly and very difficult" (Ex. 3-44, p. 1). FEMA also notes that "(T)rade secrets are the lifeblood of the flavor industry and are most carefully guarded by flavor manufacturers * * *. The disclosure required by the standard would threaten the very existence of the flavor industry without any showing that flavors and flavor materials present significant risks to any worker or that those risks would be lessened or eliminated because of the standard" (Ex. 3-44, p. 2).

In the proposal, OSHA decided that rather than exempt these industries entirely, their legitimate concerns would be addressed through modification of specific provisions of the regulation. In particular, OSHA proposed both narrowing the definition of "toxic substance" and modifying the trade secret provisions to substantially reduce the likelihood that the release of trade secrets would be required. The proposed

trade secret modifications paralleled in significant respects the current stay for the flavor and fragrance industries, which had evidently satisfied those industries' concerns in this interim period (Tr. 214). OSHA permitted the stay to remain in effect while considering comments in response to this issue as raised in the proposal. No convincing arguments were found in the record refute the Agency's discussion that the proposed modifications would alleviate the concerns expressed over trade secret access.

Therefore, this final regulation adopts the more specific provisions described above and which are discussed in detail later in this preamble. OSHA believes that the new definition of "toxic substance" and more protective requirements with respect to trade secret access will provide the necessary protection for employers in the flavor and fragrance industries, as well as other concerned employers.

Finally, the fact that these industries are subject to extensive Food and Drug Administration regulation does not detract from the need for this standard because the FDA has no comparable records access regulation.

b. *Commercial diving industry.* The Association of Diving Contractors (ADC), representing the commercial diving industry, sought a stay of the Records Access rule it applied to employees engaged in commercial diving on the grounds that: (1) The rule was improperly promulgated as it applied to them; (2) divers are not exposed to "toxic substances or harmful physical agents"; and (3) the regulation jeopardized valuable trade secrets such as proprietary decompression tables (Ex. 3-86). The Agency, while denying this stay request as lacking merit, issued an official interpretation of recordkeeping obligations in the diving industry which explained the interaction between the records access regulation, 29 CFR 1910.20, and the commercial diving standard, 29 CFR 1910.401-441, and clarified how these obligations could be met without jeopardizing the trade secrecy of the tables (Ex. 3-87). Since employees in the commercial diving industry are subject to occupational illness associated with their workplace exposure (e.g., mixed gases, hyperbaric pressure), OSHA saw no basis for excluding the industry from the records access regulation.

At the hearings, the ADC argued that OSHA has no jurisdiction over offshore diving because it has been totally preempted by the Coast Guard. It further argued that even with respect to inshore diving, the records access rule could not

apply to them because: (1) Diving employees are not subject to "toxic substances or harmful physical agents" other than "latent but basically uncontrollable safety hazards," and (2) the decision in ADC's challenge to the commercial diving standard, *Taylor Diving and Salvage Co., Inc. v. U.S. Department of Labor*, 599 F.2d 622 (5th Cir. 1979), bars application of records access regulation to the diving industry (Tr. 628-34).

The ADC subsequently sued OSHA in another case with the same name, *Taylor Diving v. U.S. Dept. of Labor* (No. 68-3400, District Ct. for the Dist. of Col.), to move that the records access regulation be held invalid for offshore diving. The Court rejected the challenge and upheld the standard for diving. It held that the Coast Guard's regulation of offshore diving did not preempt the OSHA regulation because of the legislative history, Supreme Court, and other court interpretations of the relevant language and because the OSHA regulation served a different purpose. It also upheld the purpose of the OSHA regulation as necessary for research into diver's diseases. An appeal was filed but a motion to withdraw the appeal was filed September 28, 1987.

Consequently, the legal contentions of the ADC have been rejected by the Court. OSHA policy of the need for this regulation for research into diver's diseases has been upheld. In addition, as discussed below, offshore divers need information about their medical conditions and exposure to protect their health.

Therefore, OSHA concludes that it is appropriate to continue to have the Records Access regulation apply to offshore diving operations.

With respect to OSHA's coverage of inshore diving, the following points apply. First, the Coast Guard does not regulate inshore diving so section 4(b)(1) does not generally apply. Second, the existence of hazards in the diving industry is well-documented (see 42 FR 37651-52). The fact that some of these hazards are in a sense "naturally occurring" due to the nature of diving and the environment in which it takes place is irrelevant to OSHA's authority to require the maintenance and availability of records documenting their effects. To the extent that divers are subject to substances that may be toxic under their conditions of use (e.g., breathing gases under pressure, carbon monoxide) or harmful physical agents (e.g., hyperbaric pressure, noise), their need for the regulation is no less than other employees who are covered by it.

The commercial diving standard, 29 CFR 1910.401 *et seq.*, whose purpose is to control the hazards inherent in commercial diving practices, itself requires the keeping of certain exposure records, and the keeping of medical records, while no longer required by the standard, is common to the industry. While there is much that is already known about the adverse physiological effects that can be caused by diving, there is also much that remains to be known, especially concerning its long-term effects. By requiring the keeping and availability of these records, the Records Access rule, as elsewhere, promotes occupational safety and health in this industry by ensuring the preservation of this invaluable data base.

c. *Construction Industry.* The 1980 Access rule did not provide exemption or special treatment to any industry segment, including construction. The Agency determined at that time that there was no rational basis for categorically excluding any broad class of employers from coverage. OSHA argued that the rule did not impose burdensome or unreasonable administrative or economic costs on any class of employers. In addition, OSHA pointed out that the NIOSH National Occupational Hazards Survey documented the fact that exposures to toxic substances occur throughout industry among all types and sizes of employers. Finally, the Agency argued that there was no justification for excluding employees exposed to toxic substances for a matter of weeks or months as opposed to years since even short-term exposures to toxic substances have been associated with the occurrence of chronic and acute disease.

After issuance of the 1980 rule, however, the construction industry objected to having it cover that segment due primarily to the transient nature of construction workers. They argued that long-term retention of numerous records of short-term employees would be of little use. In addition, it was pointed out that the Construction Advisory Committee had not been solicited by OSHA to review and comment on the 1980 rule prior to its promulgation.

In response to these concerns OSHA partially stayed the Records Access regulation with respect to the construction industry (46 FR 23740; April 28, 1981). In that notice, OSHA solicited comments from interested parties concerning the experience of the construction industry under the rule, and specifically what aspects of the construction industry render the

standard inappropriate. A total of 47 comments were received. Also, the Advisory Committee for Construction Safety and Health (CAC) met June 10-12, 1981, in Washington, DC and considered the issue of records access (Exs. 3-62, 3-63). OSHA published a summary and analysis of the comments and the Advisory Committee recommendations in the *Federal Register* on September 15, 1981 (46 FR 45758).

Employers in the construction industry argued during the rulemaking that the Records Access regulation posed certain practical compliance difficulties. The industry maintained that: (1) Construction employees are exposed to toxic substances, if at all, for only brief periods of time since their work requires movement from place to place on the construction site; (2) due to the large number of temporary employees (the typical construction employee annual turnover rate is between 300 and 600 percent), the regulation requires long-term retention of huge numbers of individual records having a negligible degree of occupational health significance; (3) the principal types of employee records generated on a construction site are much different from those generated in general industry—most monitoring is done on an area basis, and records do not reveal the identities of employees who may have been working in those areas; and (4) medical records generated are primarily those concerned with first aid and emergency treatment (Docket H-112C; Ex. 2-42A, pp. 4-6).

On the other hand, worker organizations (Ex. 2-31) maintained that the transience and mobility of construction workers make the access standard particularly appropriate for the construction industry, since construction workers do not have the benefit of many of the industrial hygiene controls found at permanent fixed work site and there is currently no other mechanism for providing a continuous medical history for construction workers. Those supporting construction coverage also argued that modern computerized recordkeeping methods make the storage and access of medical and exposure records feasible and inexpensive.

Finally, the CAC recommended, among other things, that OSHA lift the stay in recognition of the fact that construction employees are exposed to a wide variety of toxic substances and that access to and retention of records is necessary due to latency periods of many occupational diseases.

Based on its analysis of the comments and CAC recommendations, OSHA lifted the stay for the construction industry. At the same time, the agency issued interpretations which incorporated most of the CAC recommendations that alleviated many of construction's concerns and stated that the construction records access issues would continue to be reviewed as part of the general modification process.

In developing the proposed revisions, OSHA determined that the needs of construction workers for access to records that are kept on toxic exposures or health status are at least as great as the needs of industrial workers (Docket H-112C; Exs. 3-24, 3-31, 3-33, 3-41, and 3-45). Most complaints from affected employers did not challenge, and in fact largely supported, the basic premises of the regulation, but instead targeted certain specific provisions, such as the broad scope of the rule, as being too burdensome.

To tailor the regulation to the needs of the construction industry, OSHA proposed: (1) Incorporation of various interpretations which were made in response to the June 11, 1981, CAC recommendations; (2) exemption of construction industry from medical records retention requirements beyond the duration of employment; (3) modification of the definition of "toxic substance;" (4) removal of records of most first aid and emergency treatment from the definition of "employee medical record;" and (5) elimination of purchase order type records of chemical identity from the definition of "exposure record." The latter three proposed changes were not specific to the construction industry, but were expected to be of particular relevance to it.

A draft of the proposal was submitted to the Advisory Committee which met on March 3-5, 1982, for its further consideration. The CAC submitted seven additional recommendations, which were considered and, for the most part, accepted in developing the proposal (Exs. 3-77, 3-78, 3-82). It is important to note that none of the CAC recommendations goes to the basic issue of construction industry coverage. On that question, the CAC position has been that the regulation is necessary and appropriate for the construction industry. Several commenters, however, disagreed with the CAC position and asserted that construction employment should not be covered by the regulation. In general, however, these commenters did not provide evidence that access to exposure and medical records was not of occupational health importance to

construction workers, nor did they present evidence indicating that the current rule has placed an intolerable burden on employers. For example, several commentors submitted the identical following statement, but did not demonstrate the "practical" difficulties attributed to the rule with respect to construction or their company: "It is our view that the proposed Medical Records Access Standards is not practical for use in the construction industry, and especially for our company" (Exs. 4-32, 4-32, 4-34, 4-114, 4-115). Another commentor's submission consisted of the following: "The proposed Medical Records Access Standards 1910.20 is not practical for the construction industry. It is definitely not practical for our company and WE DO STRONGLY OPPOSE IT". (Ex. 4-25)

While expressing a strong preference, the foregoing comments do not contain any substantive information that demonstrates the validity of that preference.

Therefore, OSHA finds that the record supports the determination to accept the CAC position and continue to include construction employment within the scope of the regulation. The changes in this rule to exclude retention of first aid records and records of short term employees for 30 years eliminates any possible practical difficulties.

Several of the proposed changes were opposed by labor representatives in the construction industry (Exs. 4-22, 4-43; Tr. 1076-1109). With regard to the proposed changes to the records retention requirements, the Building and Construction Trades Department, AFL-CIO, noted:

The BCTD does not agree that the record retention requirement in the construction industry should be different from that in other industries. While we recognize that there exists in the construction industry a greater turnover of employees, the need for long-term medical recordkeeping as a tool for epidemiological studies is just as important in the construction industry as in other industries. (Ex. 4-43, p. 4)

Mr. Ronald Wollford (IBPAT) added:

Excluding construction employers from the data storage requirements of this standard is, therefore, one of the worst things that could be done for the future of the construction industry. These records could be provided and stored through services that already exist at very low costs * * * (Tr. 1082)

Based on this evidence that retention of personal medical records in the construction industry is of occupational health importance, OSHA has determined that it is appropriate to accept the CAC position and not promulgate separate medical records

retention periods for the construction industry.

However, in response to concerns from both general industry and construction employers, OSHA has incorporated the final rule an exemption for medical records of short-term (less than one year) employees and most first aid records from the records retention requirements of the regulation. Employee access to these records would continue to be required to the extent available, but employers would be relieved of the burden of having to retain these records for extended periods of time. Since in the construction industry employee turnover is high (Ex. 4-57, Att. I, p. 5) and most records of a medical nature are first aid records (Ex. 4-57, Att. J, p. 6), these exemptions should provide construction employers considerable relief from the burdens of the regulation. Yet, at the same time, the exposure records for all employees and the medical records of long-term employees will remain available for epidemiologic evaluation concerning occupational diseases associated with the construction industry.

Full discussions of the regulation's retention requirements and the specific treatment of first aid records and medical records of short-term employees are discussed elsewhere in this preamble.

After reviewing all the evidence and comments in the record of this proceeding, OSHA has concluded that construction should be covered by the Access rule. OSHA finds that the health needs of construction workers are similar to employees in other sectors and that various changes that have been made in the rule overcome specific problems which might exist in construction.

B. Definitions

1. Analysis Using Exposure or Medical Records.

Among the records covered by this rule are "analyses using exposure or medical records." The definition of this phrase was modified in the proposal to exclude "research" and "other" studies, thereby including only data compilations or statistical studies based on information contained at least in part in employee exposure or medical records. This modification was meant to conform the language of the regulation closer to the original intent, which was to cover such records as "charts, graphs, tables, industrial hygiene surveys, evaluation of disease experience, and other summaries and evaluations" of exposure and/or medical data, but not

such records as engineering reports or the records of experimental toxicological research, which typically bear only a tenuous relationship to the actual workplace exposures or health of employees. In making this distinction, OSHA was particularly concerned that the rule not act as a disincentive to employers who are inclined to conduct research in the occupational health area beyond routine measuring or monitoring of toxic exposures. Many commentors favored this modification (Exs. 4-11, 4-30, 4-60, 4-62, 4-68).

Some parties, however, objected to this provision, maintaining that records of experimental toxicological research are important in diagnosing occupational health problems (Exs. 4-9, 4-77; Tr. 481, 507, 528). Dr. Grace Ziem, M.D. (Johns Hopkins University) wrote that:

I do feel, however, that in addition to trade secret information, physicians should also have access to experimental toxicological research. OSHA's proposal currently explicitly denies such access to workers and it is important for the medical consultant to have the most up-to-date information on each chemical. (Ex. 4-9, p. 1)

Also, Mr. Barry Scott, C.T.H., stated that the proposed revisions "apparently" ignores the fact that these engineering and toxicological research and reports have historically been the basis for setting and modifying guidelines for exposure to chemical substances and physical agents. In the absence of more conventional occupational exposure information this information can be used by a competent health professional, in conjunction with the employee to draw the appropriate conclusions" (Ex. 4-98, p. 2).

While OSHA does not dispute that health professional access to engineering studies and experimental toxicological research can assist in the detection and diagnosis of occupational health diseases, OSHA continues to maintain that these records do not properly fall within the scope of this regulation in that they are not based on employee exposure or medical information. This conclusion is consistent with OSHA's original intent in promulgating the 1980 regulation. The preamble to that rule states that "the phrase 'any compilation of data, or any research, statistical or other study' more clearly expresses the intention to cover all situations where an employer evaluates or compiles exposure and/or medical data, charts, graphs, tables, industrial hygiene surveys, evaluations of disease experience, and other summaries and evaluations are covered by the definition" (45 FR 35260). Clearly,

records or studies not based on employee exposure and/or medical information, such as animal toxicological research or engineering studies, were not intended to be covered by this regulation.

Since the proposed provision better expresses OSHA's original intent, it has been adopted for the final rule.

2. Employee

Modification of the definition of "employee" (paragraph (c)(4) was proposed to be consistent with the "scope and application" section. The proposal defined "employee" as any employee "whose work directly involves the manufacturing, processing, handling, installation, packaging, transport, disposal, or use of toxic substances, or who is subject to harmful physical agents in any manner different from typical non-occupational situations, and includes, but is not limited to, coverage of production, maintenance, construction and transport workers" (47 FR 30434). The need for "direct involvement" was a limitation not found in the original rule.

As noted previously in the discussion of the scope of the regulation, OSHA has decided not to alter the scope of the rule at this time. Therefore, "employee" continues to be defined in the final rule as "a current employee, a former employee, or an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. In the case of a deceased or legally incapacitated employee, the employee's legal representative may directly exercise all the employee's rights under this section." This is the same definition that appeared in the 1989 regulations.

3. Employee Exposure Record

OSHA proposed narrowing the definition of "exposure record" to conform more closely to the common meaning of that term. The proposal required retention and access for only the following types of exposure records: (1) Environmental (workplace) monitoring results; (2) biological monitoring results defined as exposure records by OSHA standards (other biological monitoring would now be treated as medical records, which are entitled to greater confidentiality protection); and (3) material safety data sheets. Other records which reveal the identity of a toxic substance or harmful physical agent would no longer have to be treated as exposure records.

In the absence of more formal exposure records (air contaminant measurements, biological monitoring data, material safety data sheets),

paragraph (c)(5) of the 1980 rule also treated any other record which reveals the identity of a toxic substance (e.g., purchase records) as an "exposure record." The requirement to keep and make available this information, when coupled with the broad definitions for "toxic substance" and "exposure," was the source for much of the concern regarding trade secret disclosure and the practical burdens of complying with the regulation. The proposal dropped this aspect of the definition.

Mr. David Bossman (American Feed Manufacturers Association) commented with respect to the 1980 regulation that "(T)he rule, as adopted * * * requires employers to retain for at least 30 years massive quantities of routine documents, including production records, shipping records, invoices, etc., which are not at all directly related to the purpose of the rule" (Ex. 3-26, p. 7).

Similarly, the feed manufacturing industry submitted a petition in September, 1981, which sought a stay of the regulation as it applies to employee exposure records (Ex. 3-26). The industry maintained that "Exposure records" have been so broadly defined so as to include nearly every piece of paper generated in many workplaces * * * (we) did not fully realize that the regulation likewise requires retention of literally thousands of routine documents." (Ex. 3-26, p. 2).

The proposed provision therefore responded favorably to the major concerns of many employers, including the construction, flavor and fragrance, food processing and feed manufacturing industries, who maintained that access to records such as purchase orders was burdensome and could have jeopardized many valuable trade secrets (Ex. 3-44).

Industry groups testified that the proposed provisions are justified due to the compliance burden of maintaining large numbers of records, and that only records made for health, safety and environmental purposes should be included under the "exposure record" definition (Exs. 4-11, 4-20, 4-37, 4-60, 4-62, 4-66, 4-68, 4-78, 4-79, 4-109; Tr. 829). Dupont noted that:

Commonly, employees are required to perform tasks at various locations throughout the plant site. In the case of an employee required to travel through various areas, a site must conduct an extensive and burdensome search to locate all of the records which are covered by the access rule. When records are collected, they rarely, if ever, are correlated to particular employees and do not quantify a particular employee's exposures. If it is possible to extrapolate employee exposures from these data, it is extremely tedious. The end result is that sites spend an extraordinary number of man hours collecting data which really do not provide

useful exposure information for employees. (Dupont, Ex. 4-68).

By contrast, many interested parties commented that the proposed definition went too far in limiting the definition of "exposure record," particularly in eliminating qualitative records of chemical identity from the definition (Ex. 4-98; Tr. 147, 165, 177, 760, 901, 1021). These parties maintain that qualitative information can be extremely helpful in detecting the causes of occupational disease, since quantitative data often does not exist concerning toxic workplace exposures. Mr. Wright (USW) noted in his testimony that "sometimes the worst problem in a workplace is the one for which the least sampling exists" (Tr. 901), indicating that at times companies may not be aware that hazards exist in certain work areas, and therefore have not conducted exposure monitoring (Tr. 902).

Dr. Michael Silverstein of the United Auto Workers noted a specific case where qualitative information was used in detecting an occupational illness:

In this regard, I'd like to draw attention to an outbreak of neurologic damage to the bladders of workers exposed to a foam catalyst, trade name NIAX ESN, in 1978 at a plant manufacturing automobile seat cushions.

In this case, no traditional industrial hygiene exposure data was available. However, the plant maintained production records indicating the amount of all the catalyst used on different assembly lines from week to week and these records made it possible to reconstruct exposure histories for the sick workers and to identify NIAX ESN as the culprit.

NIAX ESN was removed from the plant and the epidemic abruptly stopped. (Tr. 147)

Moreover, employee groups make the argument that the current "exposure record" definition does not place an unrealistic compliance burden on employers. They note that the current definition specifies coverage of qualitative records of chemical identity only in the absence of other types of exposure records. Therefore, if a chemical inventory, for instance, is available, there would be no requirement to retain records such as sales receipts, purchase orders, batch cards, or other records which may contain chemical identities. The regulation requires that some record of identity and exposure be kept, if available, not that all such records with duplicative information be kept. Even though the regulation itself does not require the creation of records, these parties indicated that by voluntarily generating an inventory list, as many do

for their own purposes, an employer could in fact reduce the total compliance burdens of the rule. The AFL-CIO stated in its post-hearing comments that:

Industry has claimed that requirements covering "other" exposure records are burdensome and require the maintenance of voluminous unnecessary records. We do not agree. First, "other" records of exposure must be maintained only in the absence of quantitative measurements, or material safety data sheets for those toxic substances to which workers are exposed. The AFL-CIO believes the current standard is sufficiently flexible to allow the preservation of lists of toxic substances, as opposed to copies of all purchase orders, if all toxic chemicals and other identifying information (such as year of use, department location, etc.) are included (Ex. 16; Tr. 404). While the standard does not mandate the generation of such a list, it does in our view permit the development of a list on a voluntary basis as an alternative means of compliance. (Ex. 59, p. 9)

In assessing the burdens of the "exposure record" provision, the cost-saving features of the current regulation should also be noted. Of primary importance is the provision which allows employers to charge reasonable administrative costs for repeat requests of records. This cost-saving provision will remain unchanged in the final rule. Thus, any broad request for historical records should represent only a one-time employer expense, with the requesting party bearing the expenses for any subsequent requests.

In light of the evidence presented above, OSHA is modifying the "employee exposure record" definition contained in the 1980 regulation. The first modification expressly indicates that a chemical inventory may be substituted for any other record which reveals the identity (e.g., chemical, common, or trade name) of a toxic substance or harmful physical agent. This change does not alter in any way the requirements of the regulation, but instead indicates that a chemical inventory is an acceptable compliance alternative to the keeping of production records, shipping records, invoices, batch cards or other records containing chemical identities. It should also be noted that the Hazard Communication standard requires employers in the manufacturing section of general industry to develop work area lists of hazardous chemicals, as well as material safety data sheets (MSDS). As before, if an employer has an MSDS on a substance or a monitoring record, it is not necessary for an employer to keep an inventory or other such record.

A second modification defines an exposure record as, in the absence of environmental or biological monitoring records or MSDS's, a chemical inventory

or any other record which reveals where and when used and the identity of the toxic substance or harmful physical agent. This modification limits the number of "other records" that need be kept to those that most directly relate to employee exposures. Narrowing the definition of "other records" eliminates the need to retain a massive quantity of routine documents such as shipping records, purchase orders, invoices, etc. which only contain the chemical identity but do not describe where and when the chemical was used. In the absence of more formal exposure records, these other records may be the only record of employee exposures. As was the case with exposure to NIAH ESN, the preservation of production records which indicate where and when a chemical was used can be crucial in identifying a problem chemical in the workplace. This modified definition of exposure records preserves access to necessary records while eliminating the burden of maintaining records of limited occupational importance. With these modifications, the regulation's coverage of exposure records should not pose an excessive compliance burden to any of the complaining industries or employers, yet should fulfill the underlying purposes of the regulation.

The 1980 rule also included in its definition of "exposure record", "biological monitoring results which directly assess the absorption of a substance or agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent." In response to comments that there are some privacy concerns connected with biological monitoring results, OSHA in its 1982 proposal narrowed this provision to include only "biological monitoring results which are designated as exposure records by specific occupational safety and health standards."

The AFL-CIO challenged the biological monitoring modification asserting it would unduly remove union access to an important body of exposure information. They stated that "it is important that unions have direct access to this information to assess the extent of workplace exposures" (Ex. 59, p. 10). Ms. Margaret Seminario (AFL-CIO) also stated at the hearings that union access to this information is necessary in support of the union role in OSHA standard-setting processes (Tr. 77).

In view of the AFL-CIO position and the absence of any industrial objection, and since no specific evidence was presented indicating that the 1980 biological monitoring provision had

actually caused the release of information for which there were justifiable privacy concerns, OSHA has determined that it is appropriate to retain the 1980 provision with minor modifications discussed as follows.

However, both OSHA and the AFL-CIO agree that certain biological monitoring results, such as those which measure levels of alcohol or drugs in the blood, do deserve confidential treatment (Tr. 78). OSHA, therefore, is modifying the biological monitoring provision to exclude from the definition of "exposure record" biological monitoring tests which assess an employee's use of alcohol or drugs.

Many commenters argued that MSDS's should not be considered "employee exposure records" (Exs. 4-11, 4-36, 4-37, 4-55, 4-56, 4-79, 4-95). They noted that OSHA's Hazard Communication standard deals with MSDS's (Ex. 4-79), that MSDS's are neither a quantitative or qualitative indication of exposure (Ex. 4-37), and that MSDS's are developed for many safe substances (Ex. 4-76).

OSHA does not agree with the first two arguments. First, the Hazard Communication standard (29 1910.1200) presently applies only to manufacturing industries (see 48 FR 53280, November 25, 1983), whereas the Records Access regulation applies to all general industry, construction and maritime employments where there is employee exposure to toxic substances or harmful physical agents. Therefore, yielding to the Hazard Communication standard could preclude important employee access to MSDS's in non-manufacturing employments.

Second, OSHA does not accept the argument that the information contained in MSDS's does not supply useful exposure and health data. MSDS's normally contain information on the identity of a chemical, its known toxic properties, signs and symptoms of over-exposure, personal protection precautions, and appropriate first aid and procedures. Access to this information is necessary to ensure that employees are properly protected against the hazardous properties of the chemical present.

However, OSHA does agree that employers do generate MSDS's for products which are not toxic in the common usage of that term. Customers often demand MSDS's for all products purchased, regardless of toxicity, and that the mandatory retention of these MSDS's would serve little occupational health purpose. Therefore OSHA has modified the MSDS provision under the definition of "exposure record"

(paragraph (c)(5)(iii)) to read "Material safety data sheets indicating that the material may pose a hazard to human health." This modification is consistent with the MSDS provision under the rule's definition of "toxic substance or harmful physical agent" (paragraph (c)(13)(iii)). As previously noted, OSHA will continue to examine this issue.

4. Employee Medical Record.

The proposal included three limited exclusions from the definition of employee medical record. First, the 1980 definition included all employee X-rays, regardless of the purpose for which they were taken. The proposal would have modified this requirement by considering only those X-rays taken for the purposes of establishing a baseline or determining specific occupational illness as part of the medical record. This revision would primarily remove from coverage X-rays taken to detect or treat broken bones due to falls or other traumatic occurrences. This modification was favored by several commenter (Exs. 4-27, 4-30, 4-60, 4-68, 4-79).

The AFL-CIO objected to this revision, noting that X-rays of broken bones could be related to chemical exposures (Tr. 404-406). However, OSHA continues to believe that even in such cases where chemical exposures do cause falls resulting in broken bones, written records of the diagnosis and necessary medical treatment would be adequate for epidemiologic purposes.

Second, the proposal added paragraph (c)(6)(ii)(B) to clarify that OSHA did not consider certain first aid records to be a part of the employee's medical record. OSHA based this clarification on the assertion that, like X-rays of traumatic injuries, first aid records are not typically used to detect occupational disease (Exs. 4-62, 4-76, 4-82, 4-109; Tr. 831). However, the proposal provided that if a first aid record was made by a physician or otherwise became part of an individual worker's medical record, it would then be considered part of the medical record and subject to the regulation's retention and access provisions.

Several commenters objected to this modification arguing that first aid records are indeed important in the detection of occupational diseases, and that any exemption for first aid records would tempt employers to classify treatment of significant injuries and illnesses as "first aid" (Exs. 4-24, 4-38; Tr. 188, 765, 850, 949, 1034, 1042). The International Association of Machinists and Aerospace workers noted that:

We also feel that your proposal for the exemption of first aid records from access unless specifically made by a physician is in error. In many cases, gas inhalations are recorded as first aid cases by industry. These gas inhalation cases result from exposure to many varied chemicals in the workplace. In many cases, physicians do not fill out these first aid reports especially if they occur on the off-shifts. The responsibility for filling out the first aid forms may lie with a nurse, medical technician or supervisor * * * First aid reports such as gas inhalations can prove to be useful if an employee is continually exposed to a particular chemical. Trends can be followed and they could give insight to any problems an employee may have due to his/her workplace exposure. (Ex. 4-38, pp. 3-4)

Mr. Daniel Edwards (OCAW) further testified.

OCAW has some concern about removing first aid and emergency treatment cases from the definition of records. There seems already to be a problem in some industries where employers are recording many relatively severe injuries as first aid to avoid reporting them in the OSHA 200 Form. (Tr. 188)

Since this testimony indicates that access to first aid data can in some instances be of occupational health value, OSHA has decided not to remove first aid records from the definition of "employee medical record." However, OSHA has also decided that requiring the long-term retention of vast amounts of data concerning the treatment of relatively minor traumatic injuries such as cuts, scrapes and bruises would be of little overall benefit to the occupational safety and health purposes of the standard. OSHA also noted the statutory exclusion of first aid records in the keeping of injury and illness logs under section 8(c)(2) of the Act. This Section specifically states that records of injuries or illnesses involving loss of consciousness, restriction of work or motion, or transfer to another job are not considered first aid records.

Therefore, although access to these records will continue to be mandated, the regulation will not require the records to be kept beyond what is normal practice absent the rule. Since these records are created by employers for some administrative or medical purpose other than compliance with this rule, it is reasonable to assume that employers maintain this information for some extended period of time during which it would be available for analysis. Further, to preclude undue restriction of employee access to important medical information through the recording of the treatment of relatively severe injuries as "first aid," OSHA has modified the first aid provision to indicate that first aid records are records of one-time

treatment and subsequent observation of minor scratches, cuts, burns, splinters and the like, which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job. Therefore, a record of an injury or illness involving serious incapacitation, such as loss of consciousness, restriction of work or motion, or transfer to another job, would not be considered a "first aid" record regardless of whether or not the record was created by a physician.

The final regulation therefore includes first aid records within the paragraph (c)(6) definition of "employee medical record," but exempts in paragraph (d)(1)(i), "First aid records (not including medical histories) of one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters and the like which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job, if made on-site by a non-physician and if maintained separately from the employer's medical program and its records" from the long-term retention periods mandated for employee medical records.

The third proposed exclusion from the definition of "employee medical record" involved "records created solely in preparation for litigation which are privileged from discovery under the applicable rules of procedure or evidence." This modification incorporated an interpretation that had already been made with respect to the 1980 standard. The purpose of this exclusion was to make clear that the regulation is not meant to provide a route around local rules of discovery or evidence when the claim to which the record in question relates is being litigated and the record itself is a product of the litigation. As OSHA explained when the interpretation was first published:

The question has been raised whether an employer must provide access to records which are created solely in anticipation of litigation and which are otherwise privileged from discovery under the prevailing rules of procedure or evidence. An example could be a medical opinion prepared for the employer for purposes of aiding the employer's case by a company physician after a workmen's compensation claim has been filed. It has been OSHA's interpretation that the standard does not contemplate coverage of such a record if the record would not otherwise be available to the employee or his attorney in the litigation. On the other hand, the mere fact that a medical record (see definition at 29 CFR 1910.20(c)(6)) not originally created in anticipation of specific litigation will ultimately be used as evidence in a private

legal proceeding does not put it outside the scope of the standard. (46 FR 40490).

This continues to be OSHA's view of how the regulation should operate and is incorporated into the final rule.

5. Exposure

The proposal would have deleted the definition of the term "exposure" contained in paragraph (c)(8) of the 1980 regulation. The action was taken to make this section consistent with the proposed changes in the scope of the rule. Since the scope of the 1980 rule will be retained, the definition of exposure contained in the 1980 regulation will also be retained for the final regulation.

Therefore "exposure" or "exposed" as defined in the final rule, means "that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible) exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations."

The preamble to the 1980 regulation explained:

This final standard thus does not apply to every situation where any chemical or hazard is present in the workplace. While the final rule presumptively applies to all occupational exposures to toxic substances and harmful physical agents, the agency does not intend to cover situations where the employer can demonstrate that an employee is solely exposed to general environmental pollution, or to casual use of consumer products. For example, basic chemical manufacturing processes and abnormal exposures to heat, noise, and vibration are covered by the rule, but typical office working conditions are not. The applicability of the standard does not, however, depend on any showing that the level of actual exposure to a toxic substance or harmful physical agent is particularly excessive, but rather on the unique fact of occupational exposure. (45 FR 35265)

This continues to be OSHA's interpretation of the degree of exposure necessary to trigger the requirements of the rule.

6. Specific Chemical Identity

A definition of "specific chemical identity" (paragraph (c)(11)) was not included in either the 1980 regulation or the proposed revisions. The definition is included in the final rule to indicate the kind of information covered by the access and preservation provisions permitted to be withheld if judged by the employer to be trade secret. Access to

trade secret "specific chemical identity" information is governed by the procedures specified in paragraph (F).

7. Specific Written Consent

The definition of "specific written consent" remained unchanged in the proposal except for a clarifying modification of the language indicating that "specific written consent" would not authorize the release of medical information not in existence on the date of the written authorization unless the release of future information is expressly authorized. This modification was recommended by the CAC. This modification was uncontested in the record and is therefore adopted for the final regulation (paragraph (c)(12)).

8. Toxic Substance

The 1980 rule required the retention and disclosure of exposure information regarding any "Toxic substance or harmful physical agent." "toxic substance" was defined broadly, most notably by including any substance listed in the NIOSH RTECS list—a compendium of over 39,000 chemicals. Many affected parties have criticized RTECS as overinclusive. The definition of "toxic substance" was narrowed in the proposal to include only those chemicals on the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) list which met certain toxicological criteria.

The 1980 regulation also defined as toxic any substance which "is regulated by any Federal law or rule due to a hazard to health." This provision was broadly interpreted by some to mean that all food ingredients are "toxic" since they are substances regulated by the Food and Drug Administration. Mr. Sherwin Gardner (GMA) noted that "this regulation does not discriminate between the few genuine hazards (eg: flour dust inhalation) and the vast majority of safe food substances to which workers are exposed" (Ex. 3-55, p. 1). This was not OSHA's original intent, which was to cover such regulated substances as air and water pollutants and other health hazards, most, if not all, of which were already included within RTECS. The proposal therefore deleted this provision because it is essentially duplicative and potentially confusing, and the final regulation also does not contain this provision.

The "toxic substance" definition in the 1980 rule also included any substance which "has yielded positive evidence of an acute or chronic health hazard in human, animal, or other biological testing conducted by, or

known to, the employer," ((c)(11)(iii)) and any substance which "has a material safety data sheet available to the employer indicating that the material may pose a hazard to human health" ((c)(11)(iv)). These provisions were unchanged in the proposal, except to reference them to the toxicological criteria contained in paragraph (c)(10)(iii). For the reasons stated below, these provisions have reverted to their original form.

As stated, the core of the 1980 "toxic substance" definition was its inclusion of any substance on the NIOSH RTECS list. The proposed modification of (c)(11)(ii) (renumbered as (c)(10)(iii)) retained the use of RTECS as a basic source of information, but greatly limited its application by adding specific toxicity criteria designed to indicate whether or not a substance would likely pose an occupational health risk. To come under the definition of "toxic substance" a substance would not only have to be listed in RTECS but would have to fulfill one of the following conditions: (1) Be reported to cause human toxicity at any dose level; (2) be reported to cause cancer or reproductive effects in animals at any dose level; (3) have a reported oral rat LD50 (that dose required to kill 50% of the treated animals) of less than 500 milligrams per kilogram of body weight; (4) have a reported rabbit skin contact LD50 of less than 1000 milligrams per kilogram of body weight; or (5) have a reported rat inhalation LC50 (that atmospheric concentration required to kill 50% of the exposed animals) of less than 2000 parts per million of gas or vapor, or less than 20 milligrams per liter of mist, fume or dust. Conditions (3), (4) and (5) were adopted from the "toxic chemical" definition in the American National Standards Institute's document, "American National Standard for the Precautionary Labeling of Hazardous Industrial Chemicals" (ANSI Z39.1-1976).

At OSHA's request, NIOSH generated from RTECS a list designed to meet these criteria (Ex. 3-88). This list of 3,492 substances represented a greater than 90 percent decrease in the number of chemicals specified under the "toxic substance" definition.

The proposed definition of "toxic substance" was a major issue in the rulemaking, and much testimony was received ranging from further restriction of the definition to include only OSHA regulated substances (e.g., CMA, Tr. 651) to retaining the 1980 definition, including the entire RTECS listing (e.g., Cal/ OSHA, Tr. 429-435). Industry representatives generally supported the

proposal or favored a more restrictive approach (Exs. 4-1, 4-3, 4-10, 4-11, 4-17, 4-28, 4-30, 4-40, 4-41, 4-54, 4-59, 4-60, 4-62, 4-66, 4-68, 4-69, 4-79, 4-91, 4-92, 4-95, 4-102, 4-106, 4-107, 4-109, 4-110, 4-113; Tr. 651, 731, 830), while labor representatives advocated a broadly inclusive definition (Exs. 4-38, 4-43, 4-77, 4-98; Tr. 104, 151, 189, 334, 374, 429, 758, 1022, 1077).

The following comments are characteristic of the industry position:

We strongly endorse OSHA's decision to narrow the definition of "toxic substance." The approach of the May 1980 rule—that any substance listed in the Registry of Toxic Effects of Chemical Substances ("RTECS") is a toxic substance—was vastly overbroad and covered many substances that could not reasonably be considered toxic as used in the workplace. (CMA, Ex. 4-62, p. 10)

OSHA, we believe, demonstrated sound scientific judgment in its definitions of "employee" and "toxic substance." We are particularly impressed with OSHA's intention of providing employers with a specific list of substances covered by its rule. This extraction from the NIOSH Registry of Toxic Substances will be of great assistance to smaller employers and help preserve the scarce resources of large employers by eliminating the need for each employer to perform its own extraction. (American Cyanamid, Ex. 4-63, p. 1)

The proposed revision of the term "toxic substance" in paragraph (c)(10) is an important improvement in the regulation, but is still too broad. For example, under the proposed definition a single report that a substance appearing in RTECS may cause cancer in animals at very high doses would be sufficient to cause the substance to be considered "toxic", thereby triggering the rule. (SOCMA, Ex. 4-69, p. 2)

In their opposition to the proposed definition, labor leaders and public health officials stated that it would both exclude many dangerous chemicals from coverage and frustrate one of the principal purposes of the access regulation—the detection of previously unknown occupational diseases. The AFL-CIO testified to this point as follows:

The record clearly shows that these (OSHA) criteria, and their application to the RTECS list fail to encompass a broad range of toxic effects, and exclude vast numbers of known and potential hazards * * *

The (ANSI) criteria fail to consider the results of toxicity tests conducted in species other than rats and albino rabbits, (such as mice, guinea pigs, etc.), and ignore organ specific effects such as neurotoxicity, liver toxicity or kidney toxicity, if acute mortality is not the outcome (Exs. 6, 16, 17; Tr. 29, 32). Thus many toxic substances are missing using these restrictive animal toxicity criteria. (Exs. 6, 16, 17; Tr. 128). While the proposed language theoretically includes substances with human health effects, in practice such substances are excluded, since

RTECS generally does a poor job of reporting human health effects. (Exs. 6, 15, 16, 17; Tr. 115). Therefore, application of "human health effects" criteria to the RTECS list fails to catch many toxic substances (Tr. 115). (AFL-CIO, Ex. 59, 6-7)

Further, Dr. James Melius of NIOSH testified:

A major problem with the access and retention being based on current knowledge of toxicity (is the) likelihood that what we now consider to be a non-toxic substance will later be found to be a substantially toxic (one). We all have many examples of that from our experience in occupational health, asbestos, vinyl chloride, DBCP, etc.

However, under the proposed regulation, the changes in the regulation, the records necessary for an epidemiological or medical study of the human toxicity of a formerly non-toxic compound might not be available * * *

Similarly, workers with access to the records might have discovered clues to the toxicity of the substance much before it came to our attention in other ways * * *

In summary, NIOSH believes that OSHA's plan to use the set of toxicological criteria applied to RTECS would not adequately identify substances which could cause significant occupational health hazards. (NIOSH, Tr. 103-104).

Similarly, Mr. Peter Weiner (Cal/OSHA) observed:

OSHA doesn't know nor does any other scientist, really, whether the RTECS list is over-inclusive, under-inclusive or just right. The entire purpose of the rule is to overcome the dangers of under-regulation of use and exposure by at least requiring the maintenance of existing, not new, exposure and medical records on the vast sea of chemicals upon which the ship of science has yet to chart a safe course.

The criticism of RTECS on the basis of including common substances such as sugar and salt is certainly misplaced. Non-occupational exposures are not covered and it is clear from the record that there can be instances where common substances can be harmful in bulk quantities. (Tr. 431-432)

The use of RTECS as a basis for the definition of "toxic substance" was also a major issue in the Louisiana Chemical Association court case which was decided while this rulemaking was underway. In upholding OSHA's original "toxic substance" definition, the Court found:

The Registry is a compilation of substances which have produced positive results in toxicity tests. Its editors make no attempt however to interpret contradictory data or test results, and even include toxic effects produced in laboratory animals by means unlikely to occur in the workplace. Also, the Registry includes certain substances found in household use on a daily basis such as table salt, sugar, lemon oil, Vitamins B and C, and baking soda. For each of the above

enumerated substances not considered by the laymen to be dangerous, however, are thousands of other chemicals and industrial compounds, the toxic effects of which are immediate and severe. There are additionally, tens of thousands of chemicals listed in the Registry, the long term toxic effects of which are simply unknown. In short, the Registry is a listing of those chemicals research scientists will be keeping an especially close eye on in attempting to identify the sources of occupational diseases. These are the chemicals presently considered to pose the greatest potential threat as causal factors of occupational disease and illness * * * (Ex. 49)

The court further stated that:

In "defining a class subject to regulation, '[t]he inclusion of a reasonable margin to insure effective enforcement, will not put upon a [rule] otherwise valid, the stamp of invalidity.'" *Mourning v. Family Publications Service, Inc.*, 441 U.S. at 374, 93 S. Ct., at 1663. (Ex. 49)

Further, the Court has recognized the point made by OSHA that only records voluntarily created by the employer are subject to retention under the Access rule and, therefore, the rule cannot be considered as overly broad or unduly burdensome. In the Court's opinion:

* * * the records access rule, while including a "reasonable margin to insure effective enforcement" in its definition of "toxic substance," can hardly be said to "grind with a rough edge." Strikingly absent from the plaintiff's brief has been any recognition of the critical ingredient of the records access rule—that it applies only to records created voluntarily by employers * * * Considering the disclosure-type regulation found in the records access rule, it poses no burden on the plaintiffs except to maintain records they choose to compile. (Ex. 49)

Other alternatives to the use of either the OSHA RTECS subset of 3500 substances or the entire RTECS list were also explored as part of this rulemaking. Primarily, the alternative of expanding the OSHA RTECS subset through the use of other less inclusive lists of toxic substances was investigated. OSHA's Dr. Leonard Vance specifically noted these alternatives in the opening statement of the rulemaking hearing:

There were comments both that irritants be added as a separate toxicological criterion and that the OSHA and ACGIH lists be specifically referred. We are presently looking at the appropriateness of including all OSHA/ACGIH listed substances in the definition of toxic substance * * *

It was also suggested that other lists, for example, the IARC and NTP cancer lists could be incorporated into the definition to assure that no substances of obvious occupational health concern fall through the cracks of the definition. (Tr. 19)

NIOSH also addressed this alternative, stating:

The current use of the full RTECS file could be retained, or less stringent toxicological criteria could be applied to RTECS to generate a list providing better coverage. A list generated from RTECS could also be combined with other lists, including at least the OSHA-regulated substances and the National Toxicology Program Annual Report with consideration given to including also the ACGIH TLV list and the International Agency for Research on Cancer (IARC) evaluation chemical list. (Ex. 4-70, p. 5)

This alternative did not receive support from hearing participants. Mr. William Danchuck, testifying on behalf of the Chemical Manufacturers' Association noted:

If you try to list it, either with 3900 or if you try to list it with California's 700 or West Virginia's 600, you're going to find yourself with things falling through the cracks and we don't want that as much as you don't want that. (Tr. 672)

The AFL-CIO also commented:

Inclusion of OSHA regulated substances, the ACGIH TLV's IARC carcinogens, etc. will only cover substances for which adverse health effects have been firmly established. However, substances for which the health effects are only suspect would remain excluded. Such an approach would completely undermine one of the standard's main purposes—the development of an adequate data base for the future evaluation of workplace hazards. (Ex. 59, p. 7)

On the basis of these and other comments OSHA has decided that supplementing the toxicological criteria with other lists would not be adequate in defining "toxic substance" for the purposes of this regulation.

CMA supported as an alternative the use of professional judgment in determining which substances should be considered "toxic" for the purpose of this rule:

While the approach of the July 13 proposal is an improvement, it still fails to recognize the high degree of professional judgment required to make a sound decision as to whether a substance could pose a chronic health hazard in a particular workplace environment. No simple citation of published lists or uncritical reliance on reported test results can avoid the need for judgment.

OSHA should take a performance-oriented approach consistent with the hazard communication standard. As we have argued in that proceeding, coverage of chemicals presenting chronic health hazards should be limited to chemicals which are generally recognized, on the basis of well-established scientific evidence, to lead to serious adverse health effects in employees. (Ex 4-62, pp. 10-11)

Evidence from a 1972 survey presented in the rulemaking for the 1980 regulation indicated that only 3.1% of all

industrial plants used industrial hygiene services. In the manufacturing and chemical industries, where toxic substance exposures are most likely to occur, the percentages were 12.4% and 29.0% respectively (45 FR 35255). While these percentages have undoubtedly increased in the last decade, a reliance on professional judgment would still clearly fail to provide adequate benefits to workers in a substantial majority of industrial plants where services of health professionals are not normally available. For most employers, therefore, the approach of using the RTECS list is preferable.

In light of the above testimony and decisional authority, OSHA has decided to retain the use of RTECS in defining the term "toxic substance" (paragraph (c)(13)(i)). A broad definition of "toxic substance" is desirable due to the regulation's hazards detection orientation. RTECS is a readily available source which was designed for just such a purpose. The criteria for selecting a substance for inclusion on RTECS and the limitations on its use are fully set forth in its introductory section (see 45 FR 35267). To the extent that an employer has records relating to exposure to any of these substances, or there are medical records of employees exposed to any of these substances, prudent public health policy dictates that these records be kept and made available in accordance with this regulation pending receipt of and action on the recommendations of the working group. Otherwise, valuable information concerning substances with a documented potential for causing harm if misused may be irretrievably lost.

A definition of "Health professional" has been added to this final regulation. This definition was not included in the 1980 Access rule but is added for the purpose of clarity. A "Health professional" means a physician, occupational nurse, industrial hygienist, toxicologist, or epidemiologist providing medical or other occupational health services to exposed employees. Health professionals are afforded the opportunity to gain access to trade secret information in non-emergency situations when the need is demonstrated to be legitimate. For non-emergencies, OSHA believes that access to trade secret information lie in the treatment of an employee as a patient, in the evaluation of workplace hazards, and in their potential use as data for epidemiological studies. Physician and nurse access is appropriate for use in evaluation of the record in terms of continuing health care or who suspects that a patient's health problems may be the result of chemical exposure. In

addition, both physicians and nurses have access to trade secret information in emergency situations for the same reasons.

Industrial hygienists, where utilized, may require chemical identity information in order to access the conditions under which the hazardous situation arose and to confirm the existence of an exposure history.

Epidemiologists and toxicologists may require trade secret data in order to link patterns of disease with exposure to a particular chemical.

C. Retention Periods.

The 1980 regulation required exposure and analysis records to be kept for thirty years and medical records to be kept for the duration of employment plus thirty years. These periods were chosen to reflect the latency periods associated with some occupational diseases, most notably cancer.

Affected parties, construction industry employers in particular, expressed concern over the value and expense of retaining records of short-term employees for the full thirty year periods (See Exs. 3-36, 4-30; Docket H-112C, Ex. 2-42A). They argued that exposure and medical records of short-term employees would likely not be of occupational health benefit, since in twenty or thirty years it would be nearly impossible for a researcher to trace the cause of an occupational disease to short-term employment at a particular job site when the employee had worked at dozens of essentially similar job sites. It would also be nearly impossible to locate the former employees should follow-up be necessary.

In response, OSHA proposed exempting from the retention requirements any individually identified medical records of short-term (i.e., less than one year) employees provided these employees were instead given a copy of their records upon termination of employment. The agency explained that although records of short-term employees may often be of future occupational health significance, the total burdens of maintaining these records did not appear to be justified.

Also based on comments from construction industry employers that due to the nature of construction employment extensive recordkeeping would unduly burden employers (Docket H-112C, Exs. 2-3, 2-6A, 2-14), OSHA proposed to modify the current regulation's retention requirements for medical records generated and maintained by construction industry employers to the duration of an employee's employment (regardless of

duration) provided that the record is turned over to the employee upon termination of employment. This modification would not apply, however, to any medical records retention requirements contained in substance-specific OSHA standards.

In addition, OSHA proposed changing the retention period for medical records to length of employment plus 5 years, but in no event less than thirty years after the beginning of employment. This modification was designed to reduce the burden of the current rule by shortening the outer limit of how long medical records of permanent employees will have to be kept while retaining the benefit of long-term records retention.

Several interested parties opposed any reduction in the required records retention periods (Ex. 4-9, 4-22, 4-24, 4-38, 4-43, 4-68, 4-70, 4-77, 4-78, 4-98, 4-111; Tr. 105, 136, 148, 191, 380, 435, 485, 509, 766, 921, 1026, 1033, 1082). In its written comments, NIOSH noted that:

NIOSH is very concerned about OSHA's proposal to limit the retention of medical records * * *. This change could seriously undermine the improvement of the epidemiological data base used to identify occupational illnesses and injuries. There has been much criticism of the reliance on animal studies as a basis for regulation of substances. It is imperative that the best possible data base of human experience be available. Short-changing the source materials for epidemiological studies would serve only to undermine the scientific basis for health and safety regulations. This, in turn, would affect the ability of NIOSH and other occupational health research groups to conduct epidemiological studies * * *.

In summary, NIOSH recommends that no changes be made in the general medical record retention time provisions of the current regulation and that no limitation of this provision be made based on plant size. It has been our experience that most employers retain medical records for long periods of time after employment for other reasons. Therefore, we do not believe that the current regulation imposes inordinate extra burden beyond the common practice of most industries. (Ex. 4-70, pp. 6, 8)

The American Public Health Association (APHA) also commented on this issue as follows:

Medical records and their retention are a particular concern for the APHA because of our interest in research and epidemiology.

The proposal requires only five years retention for workers who had put in 25 years before retirement. This would result in more rapid destruction of records of long-term employees—presumed to have more cumulative exposure. At the other end of the spectrum, the proposal uses a minimum of one year of employment to trigger the retention of records * * *. For epidemiologic studies the trigger time should be much shorter. For example, in dibromochloropropane (DBCP) morbidity

studies, work exposure for less than one year was shown to cause significant disease.

In summary, there is no evidence that these rules represent an improvement over existing provisions. (Ex. 14, pp. 5-7)

Other commenters, however, supported the proposed reductions (Exs. 4-10, 4-17, 4-20, 4-35, 4-39, 4-41, 4-52, 4-54, 4-58, 4-62, 4-66, 4-67, 4-76, 4-80, 4-97, 4-100, 4-109). The Marathon Oil Company commented:

While we are in favor of the OSHA's attempt in this proposed rule to make the retention period shorter in some cases, it still has saddled employers with a great and costly burden. More specifically, the retention period for medical records is unduly burdensome. As part of retention, such things as allergy shot records, hay fever prescriptions, and most health insurance payments, etc., will have to be retained for the duration of employment plus five years, with a minimum retention of thirty years. Employers literally will have to rent buildings to store everything OSHA requires us to save. (Ex. 4-39, pp. 4-5)

However, several employers testified that they would maintain employee medical records for extended periods of time absent the standard (Ex. 4-1, 4-11, 4-111; Tr. 108, 748). For instance, Dow Chemical requires that their industrial hygiene records, medical records, and personnel records be maintained for a period of 75 years after the date of employment (Ex. 4-111, p. 2). Dr. John Dougherty, M.D. (Celanese Corporation) and Mr. William A. Danchuck (United States Steel Corporation), both testifying for CMA, noted that their companies do not contemplate destroying employee medical and exposure records (Tr. 748-749).

Based on the evidence submitted, OSHA has determined that the proposed reduction in the retention period for medical records is not justified. The long-term retention of records is necessary to provide a data base for the detection of occupational diseases that may not manifest themselves for many years after onset of exposure.

Additionally, OSHA is persuaded by evidence that modern computerized recordkeeping systems can significantly reduce long-term recordkeeping costs (Tr. 1082). Therefore, the revised Access rule retains the duration of employment plus thirty years retention requirement of the 1980 regulation. However, as discussed earlier under "employee medical record," first aid records need not be retained beyond normal practice.

OSHA's proposal to exclude the records of short-term employees was opposed by several parties (Exs. 17, 59; Tr. 118, 191, 381, 437, 767). Mr. Peter Weiner (Cal/OSHA) noted:

There are many examples of short-term exposures which have proved harmful to

human health. Former Assistant Secretary Dr. Morton Corn has noted that Kepone workers were exposed to Kepone for a maximum of 16 months and usually less, yet sustained irreversible and tragic disease as a consequence * * *.

The records of short-term employees can be extremely useful in research. For example, Dr. Roger Glass and his colleagues were able to use company-maintained records of short-term exposures of field applicators to dibromochloropropane is studying sperm count depression in these applicators. Indeed, it was found that short-term exposure created specifically significant depressions in sperm count among such workers. (Ex. 17, pp. 49-51)

Other commenters, however, supported the proposed revision (Exs. 4-5, 4-27, 4-30, 4-60, 4-66, 4-70, 4-79, 4-80, 4-82, 4-106, 4-109). The Pennzoil Company stated:

Pennzoil supports revisions to the records retention rules, especially the changes affecting transient or short-term employees (i.e., those with less than one year of service) * * *. Therefore, complex records systems need not be maintained for short-term employees, provided that they are given their records when they leave the employ. * * * we believe that the basic purpose of the rule will be served by permitting employers to hand over medical records to short-term employees. This improvement will reduce the burdens incumbent in a mandatory, extended preservation of such records, and at the same time would provide the transient employees with useful medical information for future use. (Ex. 4-30, pp. 4-5)

After considering both arguments, OSHA believes that although medical records of short-term employees may be valuable in some instances in the detection of occupational disease, this would not generally be the case. Therefore, OSHA is providing the option to employers of short-term employees to either maintain the medical records of short-term employees for the duration of employment plus 30 years, or provide these employees a copy of their medical record upon termination of employment, with no further retention required.

Providing short-term employees with copies of their medical records upon termination of employment does not eliminate all employer records of occupational injuries and illnesses for short-term employees. Under 29 CFR Part 1904, employers are required to record all occupational injuries and illnesses on the OSHA 200 Log and the OSHA 101 Supplementary Record. For short-term employees who suffered an occupational injury or illness during their employment, the OSHA 200 and OSHA 101 Forms are a record the employer maintains after the medical records are given to the employee, and can be examined if the need arises.

The short-term employee retention exemption should not reduce the overall benefits of the regulation. Having the medical record travel with the employee will better inform that employee of his or her health status and greatly assist the development of a work-life exposure history for that employee. Additionally, it is important to note that the records of long-term employees will be available for epidemiologic study, thus providing a data base for the study of substances to which short-term employees are likewise exposed.

D. Access to Records

The 1980 regulation required that requested records be made available within 15 days of the request. However, several commenters argued that situations may arise where it is not possible to comply with the fifteen day limit (Exs. 3-27, 3-28). Records may be stored at locations remote from where the request is made, or extraordinarily large numbers of records may be requested.

The proposed modification of paragraph (e)(1)(i) clarified OSHA's intent in requiring records to be made available within 15 working days. The modification, which incorporated a previous OSHA interpretation (46 FR 40490), allowed employers to exceed the 15 day limit providing that: (1) It is not reasonably possible to fulfill the request within 15 days; and (2) within the 15 day period the employer apprises the requesting party of the reasons for the delay and provides an approximation of when the requested records will be available. The CAC recommended that OSHA explicitly require the 15 day limit with regard to the employer's obligation to notify the requesting party of any reasons for delay.

Several commenters favored this revision (Exs. 4-11, 4-20, 4-29, 4-62, 4-79, 4-80, 4-82, 4-95). Air Products and Chemicals, Inc. noted:

We support the changes in paragraph (e) which recognize the impossibility of immediate access to all data. This is particularly true in multisite organizations. For example, some of the analyses and compilations of the raw data of the kind which may be most useful to an inquirer likely will not be at the plant site, but at a corporate office or another location. Thus the proposal to acknowledge the request promptly and to supply the data in a reasonable time frame is appropriate. This limitation is particularly necessary in view of the broad requirements of (the regulation). (Ex. 4-11, p. 6)

The Chemical Manufacturers Association also noted:

OSHA has appropriately taken notice of the fact that it is sometimes impossible for an

employer to make exposure and medical records available within 15 days of the request and that the assistance of the requester may be needed to locate records. Since large numbers of documents may be generated during the lengthy retention periods, and large numbers of employees may be requesting records at a given time (especially if designated representatives are entitled to access), these provisions for extension of the 15-day response period are necessary to make this rule workable. (Ex. 4-62, p. 20)

Union representatives and Cal/OSHA objected to the proposed modification of the 15-day requirement. (Exs. 4-38; Tr. 192, 383-384, 440-441, 887-888; Ex. 59, pp. 13-14). The AFL-CIO noted that "the extension, however, is open-ended, and there is no guidance provided on what constitutes just cause for an extension", and that "employers often delay transmittal of requested information as long as possible, even in the presence of a regulatory time limit" (Ex. 59, p. 13).

However, OSHA is not convinced that a return to the firm 15-day limit is warranted. The agency has provided guidance on what constitutes just cause for an extension by requiring that the cause be "reasonable." In issuing the interpretation, OSHA stated:

* * * what is a "reasonable" time will vary from situation to situation. Factors such as the location of requested records, the number of pending competing requests for records, the scope of a request and the availability of technical personnel necessary to process the request, are all relevant in determining what is a reasonable time. It is our expectation, however, that the vast majority of requests for records can be satisfied within 15 days, and the standard established this as a mandatory requirement * * *

Thus, as long as an employer is making a diligent, good faith effort to provide requested records as soon as possible, and is keeping the employee or employee representative informed of any reasons for delay, OSHA will not cite for violations of the standard. (46 FR 40490)

OSHA therefore has adopted the proposed provision in the final rule.

OSHA has also adopted the proposed paragraph (e)(1)(ii), which was added in the proposal to indicate that an employer may require of the requesting party reasonable information to assist the employer in the location or identification of requested records. This information would assist employers in locating requested records and will avoid extensive searches of records by employers to determine which specific records are covered by a request. This information is to be used only for locating records, not for the purposes of restricting or preventing access to records to which the employee is otherwise entitled. OSHA has also adopted a CAC recommendation that, in

this case, only information related to locating the record may be requested by the employer.

The final regulation also includes proposed paragraph (e)(1)(iv). This paragraph states that "in the case of an original X-ray, the employer may restrict access to on-site examination or make other suitable arrangements for the temporary loan of the X-ray." This modification, which incorporates a prior official interpretation provided to the DuPont Company (Ex. 3-65), is intended to clarify an employer's responsibility in providing access to X-rays. Under paragraph (e)(1)(iii) of the regulation the employer is required to provide an employee a copy of the record, or make copying facilities available to the requestor. However, in the case of X-rays a copy is not interchangeable with the original. Also, specialized equipment is required for copying X-rays, and this equipment is not normally available to employers (see Exs. 3-32, 3-65). This modification indicates that the copying provisions of the rule are intended to apply to the parts of the employee medical record which can be easily photocopied or reproduced, and not to X-rays. In requiring "other suitable arrangements" if on-site examination cannot be arranged, it is expected that accepted medical practices for making X-rays available to other physicians or to employees will be followed. This modification also responds to concerns that limiting access solely to on-site examination would discourage review of X-rays by employee physicians (Tr. 501; Ex. 55).

A clarifying modification was also proposed for paragraph (e)(2) concerning employee and designated representative access to records. The 1980 regulation required employers to provide an employee or designated representative access to exposure records of all employees having exposures similar to those of the subject employee. This provision was capable of overly broad interpretation, suggesting employee and designated representative rights of access to potentially large numbers of duplicative records, or records of exposures at similar workplaces at distant plants and locations. However, allowing access to exposure records of similarly exposed employees was intended only as an alternative when personally identified or workplace exposure records are inadequate to determine the amount and nature of toxic substances or harmful physical agents to which the employee is or has been exposed. The proposal therefore permitted access to exposure records of other employees only in the

absence of personal exposure or workplace records adequate to determine the nature of an employee's exposure, and only to the extent necessary to determine the subject employee's exposure adequately.

This provision incorporates a previous interpretation of the 1980 regulation published by OSHA on August 7, 1981 (46 FR 40490). The interpretation stated that:

The standard requires that employees and designated representatives be provided access to "exposure records of other employees with past or present job duties or working conditions related to or similar to those of the employee." 29 CFR 1910.20(e)(2)(i)(B). The basic purpose of this requirement is to assure that an employee may obtain access to relevant exposure information of other employees in similar working conditions. Access to this information is necessary when monitoring has been conducted on a representative or sample basis where not all employees are personally monitored. See 45 FR 35272. The obligation on the employer is to conduct a good faith, diligent search for such records, but there is no intent that the search be "heroic" or unusually disruptive to the employer's operation. For example, if access to exposure records of other employees at the requesting employee's workplace adequately indicates the nature of the employee's exposure, access to records of other workplaces need not be provided. However, if adequate exposure records do not exist at the requesting employee's workplace, but are known to exist at some other workplace of the employer where similar work is performed, access to this information must be provided.

There was no opposition to this interpretation and proposed modification presented during the rulemaking. Because it is a reasonable and cost-effective approach to achieving the purpose of the records access rule, OSHA has adopted the proposed provision for the final regulation.

E. OSHA Access

The 1980 regulation required that each employer, upon request, provide "immediate" access to records for authorized OSHA employees. The proposal substituted the word "prompt," which reflects OSHA's intent that the employer must not unduly delay providing the requested records to the requesting OSHA official, but, consistent with whatever legal protections are available to the employer, makes them available to OSHA as soon as possible. The phrase "without derogation of any constitutional and statutory rights that the employer chooses to exercise" was proposed to be added to make explicit OSHA's recognition that its access to records takes place against a

background of Fourth Amendment law, particularly as explicated in *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978). Although issuance of the 1980 regulation was designed to promote voluntary compliance with OSHA access requests, the Agency will seek a search warrant or subpoena, as appropriate, if an employer exercises his right to require that OSHA resort to legal process before obtaining such access. As the District Court in the *Louisiana Chemical* case found, OSHA fully intended to respect these Fourth Amendment rights all along.

Mr. Peter Weiner (Cal/OSHA) commented that this modification could be misinterpreted to mean that the employer could assert rights granted by state law as taking precedence over this OSHA standard (Tr. 443). To preclude this potential misinterpretation, the proposed modification has been changed slightly to "without derogation of any rights under the Constitution or the Occupational Safety and Health Act of 1970, 29 U.S.C. 65 *et seq.*, that the employer chooses to exercise" to better convey OSHA's intent in this matter.

F. Union Access to Records

The 1980 regulation granted recognized or certified collective bargaining agents automatic status as designated representatives, without requiring individual employee authorization, for purposes of access to exposure and analysis records. The purpose of this special status was to assure that unions would have ready access to exposure information so that they could better represent the interests of their members in the occupational safety and health area. Comparable special status was not granted with respect to medical records, however, because of the significantly greater privacy interests involved. Several commenters questioned whether, under the OSH Act, unions should be treated preferentially to other designated representatives who have to obtain written authorization to establish the agency relationship. Further, commenters have also complained that providing unions unconsented access to employee exposure records enables union officials to burden employers with large-scale records access requests and is best handled through traditional collective bargaining (DuPont, Ex. 3-33).

In three 1982 decisions concerning union access to exposure and analyses records, the National Labor Relations Board (NLRB) held that unions do have a right of access to these records since the information contained in the records is presumptively relevant to the union's role as collective bargaining agent for

unit employees. *Minnesota Mining and Mfg. Co.*, 261 NLRB No. 2 (April 9, 1982); *Colgate-Palmolive, Inc.*, 261 NLRB No. 7 (April 9, 1982); *Borden Chemical, a Division of Borden, Inc.*, 261 NLRB No. 6 (April 9, 1982). These decisions were affirmed by the United States Court of Appeals for the District of Columbia Circuit on June 30, 1983.

Although no change to the union access provision was proposed, OSHA encouraged interested parties to comment on whether a modification of the existing standard either limiting or deleting the automatic status of unions as designated representatives would be appropriate in light of experience under the 1980 standard, the NLRB decisions, and considerations of safety and health.

Union officials and other participants testified against OSHA's deferring to NLRB on the issue of union access to records (Exs. 4-12, 4-24, 4-38, 4-43; Tr. 163, 186, 194, 338, 387, 422, 771, 855, 879, 889, 892, 1019, 1034, 1083). They argued that NLRB procedures take long periods of time (Tr. 194, 425); the union access rights under the 1980 regulation are greater than access rights granted by the NLRB (Tr. 339-340); the NLRB decisions are not final, but are currently under appeal (Tr. 389, 856); proper functioning of the OSH Act depends upon union access to information (Tr. 389-390, 422-423); and that the NLRB does not establish standards, but instead makes decisions on individual cases (Tr. 425).

Many commenters favored some restrictions on union access to records (Exs. 4-17, 4-19, 4-20, 4-41, 4-49, 4-59, 4-60, 4-62, 4-66, 4-68, 4-69, 4-78, 4-94, 4-95; Tr. 655, 1048) including deferral to NLRB. Evidence in the record indicates that unions have used the 1980 standard to gain access to large amounts of exposure information (Exs. 39B, 15 (App. 1); Tr. 204, 328). Comments from industry witnesses indicated general concern about the broad-based right of union representatives to demand access to all exposure records. Mr. William Danchuk, testifying on behalf of the Chemical Manufacturers Association, stated:

The provision for automatic designated representative status permits the misuse and misdirection of time and finances merely for the purposes of expediency. It permits unspecified and over-general inquiries which obligate the expenditure of enormous resources by the employer without benefitting the employee. (Tr. 658)

The issue here is whether we can accommodate in these economic times the wholesale request for information of this magnitude. (Tr. 661)

Dr. John Dougherty, M.D., also speaking for CMA, further testified:

I think before I ought to ask for any information on a plant, I'd want to know * * * something about the working conditions in the plant. I'd be looking for specifics.

I think it's an attractive idea to think that if you ask for everything and get everything and try to piece bits and pieces of everything together, you can make scientific progress, but science doesn't work that way.

Unfortunately, in improving both activity of a plant or improving the health and safety of a plant, you have to start with an idea. You have to start with a concept. (Tr. 665-666)

Mr. Ronald Lang, Executive Director of the Synthetic Organic Chemical Manufacturers Association, Inc. (SOCMA), commented similarly:

In addition, the OSHA provision is subject to potential abuse by unions as a method of harassing employers in connection with collective bargaining. A SOCMA member recently obtained a blanket request for records from a local of the International Chemical Workers Union which upon investigation proved to be made at the request of the international union * * * SOCMA has previously submitted for the record evidence that the Oil, Chemical and Atomic Workers International Union has urged its locals to submit blanket requests for records under OSHA's rule. It is noteworthy that in one of the NLRB decisions, the Board noted that OCAW's call for blanket requests for records had caused 110 locals to send identical letters to the employers of their members * * * Such blanket requests pose unnecessary burdens for employers and cannot be justified on the basis of protecting employee safety and health. OSHA should ensure that its rule is not used for the purposes of harassment by deleting its duplicative union access provision. (Ex. 4-69, pp. 5-6)

The evidence indicates that there are occupational health benefits to be gained by permitting union access to records (Tr. 157, 201, 328, 341, 347, 358, 388, 448, 494, 498, 772, 847, 858, 868, 870, 1037). The ICWU noted in their testimony 25 specific examples where union access to records benefited worker health (Ex. 15, pp. 5-15). This testimony indicates that the ICWU has used their records access rights for several valuable occupational health purposes, including formaldehyde hazard recognition and abatement, evaluation of nuisance dust exposure, evaluation of the effects of polychlorinated biphenyl (PCB) exposure, evaluation of respiratory protection programs, and evaluation of the effectiveness of eyewash facilities.

Union representatives also testified to the impracticality of obtaining individual employee consent for access to exposure records. Mr. Michael Wright of the United Steelworkers indicated three major problems in obtaining consent from individual workers:

The first is time and red tape. In some cases, for example a primary lead smelter, there may be as many as a thousand workers exposed to a serious toxic substance—lead, arsenic, something like that * * *

The second problem is the inevitable conflicts in interpretation that would arise * * * where the workers currently exposed in that area are not the ones on whom the sampling pumps were physically placed * * *

The third problem * * * is the potential for harassment * * * the OSHA Act itself recognizes the potential for harassment in its own procedures. Workers are allowed to file complaints anonymously * * * Here we have a case where a worker who complains about the potential for a problem in the area, and where we think we need air sampling results to obtain information about that problem, where that potential for harassment exists and is created by * * * this proposed change in the regulation. (Tr. 861-863)

OSHA also notes that the DC Circuit Court found in the lead case (*United Steelworkers v. Marshall* 647 F. 2d 1189, DC Circuit 1980. Cert. denied 433 U.S. 913, 1981) that requiring specific authorization to give access to records which do not raise significant personal privacy concerns could pose insuperable and unnecessary obstacles to unions, whose access to this information is essential to their role as safety and health advocates for employees.

The issue of union access and NLRB jurisdiction was also addressed by the Court in the Louisiana Chemical Association decision. The Court found that the standard's authorization of records access by unions is not an impermissible invasion of NLRB jurisdiction because it fulfills the statutory goal of promoting healthful working conditions and only incidentally enhances the bargaining status of unions. The Court stated:

LCA argues that OSHA has overstepped its jurisdiction, asserting that the agency's principal motivation for enacting the rule was to gain a benefit for employees and unions which they have been unsuccessful in securing through the NLRB. Specifically, the benefit of records access. The court must make little of such an allegation for two reasons. First, the records access rule is a duly authorized regulation, reasonably related to its underlying statute. While the rule undoubtedly enhances the bargaining status of unions, it is plain on the record that this result was simply incidental to fulfilling the statutory goal of promoting healthful working conditions. Second, due to the requirement of the NLRA that employers provide the information to unions contemplated in this proceeding, and that fact that the Occupational Safety and Health Act was meant to supplement national labor policy, there is no indication that any impropriety has been committed by OSHA. (Ex. 49, p. 17)

However, it is also clear that unions have used the access rights granted by the 1980 regulation to request large amounts of information (Ex. 15, 39; Tr. 204, 328). Employers have expressed a great deal of concern over the potential for harassment through the broad-scale right of access, and remain skeptical with regard to the occupational health benefits derived from providing anyone with access to enormous amounts of data.

OSHA has decided that there are merits to both the labor and industry positions. The final rule continues to permit union access to the broad range of exposure information covered by the regulation without obtaining the individual authorization of employees. However, union officials are now required to state with particularity the records requested to be disclosed, and their specific occupational health need for requesting the information. In this manner, OSHA believes that the occupational health benefits of union access to records will be achieved while keeping the necessary employer burdens of providing the records to a reasonable minimum.

This approach will permit employers to better establish which records are needed to fulfill the union's stated purpose, and should reduce the burdens on employers of providing access to large amounts of information not germane to the reason for access.

G. Trade Secret Provisions

The 1980 regulation required the disclosure of a toxic substance identity even if the employer considered the identity to be a trade secret. At the same time, the rule permitted an employer to delete from requested records any trade secret information which discloses manufacturing processes, or discloses the percentage of a substance in a mixture. If the employer chose to delete such information, he was required to notify the person requesting the records that such information was deleted on trade secret grounds. If the deletion of information adversely affected the ability to determine the nature of an employee's exposure, the employer was required to provide alternative information sufficient to allow adequate exposure evaluation.

The provision requiring toxic substance identity disclosure was troublesome to the flavor and fragrance industries and chemical industries, which maintained that the preservation of trade secrets is vital to corporate profitability, and that the regulation's exclusive reliance on confidentiality agreements to protect trade secrets is

inadequate (Ex. 3-44 (FEMA); Ex. 3-35 (CSMA)).

The purpose of the regulation is to provide employees with information on the chemical hazards to which they are potentially exposed. With this information they can better ensure that they are adequately protected against these hazards. Any barrier to disclosure between an employer and his employees can only serve to limit the effectiveness of the rule. However, OSHA thought it necessary to modify the regulation so as to strike a better balance between providing employees with information necessary to maintain the benefits established by the regulation and at the same time protect legitimate trade secrets.

As stated in the preamble to the proposal, unqualified trade secret protection can act as a significant barrier to the disclosure of exposure information. A trade secret can be anything which a business in fact keeps secret from its competitors and the public, provided it is minimally novel and commercially valuable.

Restatement of Torts, § 757 comment (b) (1939); Cavitch, *Business Organizations* § 232.01 (1975). Absolute secrecy is not essential; information can be considered a trade secret even though it is divulged to employees or licensees with a "need to know," provided the holder of the secret had taken steps to restrict unnecessary access to, and the use of, this privileged knowledge. Cavitch, *supra*, § 232.01(1). Trade secret protection entitles the holder of a trade secret to its commercial exploitation and to certain judicial remedies for a breach of confidence or dispossession of the trade secret through improper or unethical means (industrial theft, bribery, spying, etc.). The Supreme Court had identified the maintenance of standards of commercial ethics and the encouragement of invention as the broadly stated policies behind trade secret law. *Kewanee Oil Co. v. Bicron*, 416 U.S. 470 (1974). Unlike patents or copyrights, however, there is no comprehensive Federal law of trade secrets, as it is basically a right created by the States.

The conflict between access to exposure and medical records and trade secret interests arises whenever an employer is asked to reveal information such as the identity of a chemical which the employer considers to be a trade secret. While most trade secrets relate to process information or formula or percentage mixture information, none of which is required to be disclosed by the standard, the identity of a chemical or mixture ingredient may itself be

considered a trade secret if its existence is unknown to a competitor (e.g. certain intermediates, catalysts) or cannot practically be "reverse engineered" by analytical techniques.

The same identity information, however, may be essential to the detection of occupational disease. Since exact chemical identity is the passkey to the scientific literature, this information must be available to an industrial hygienist or other health professional who is evaluating the hazards associated with a chemical. Likewise, it must be available to an epidemiologist who is attempting to link patterns of disease with exposure to a particular chemical and to a treating or consulting physician or health nurse who suspects that a patient's health problems may be the result of chemical exposure. While not every employee needs the chemical identity, as distinct from hazardous effects and precautionary information, at all times, a primary goal of the regulation is to encourage employees to seek out advice and information about the chemicals in their workplaces. For this to happen effectively, they need to know the identities of the toxic substances they are exposed to.

In attempting to accommodate the competing interests between chemical identity disclosure and trade secret protection, OSHA also took into account the existence of several factors which contribute to the regulatory dilemma. First, a chemical is a trade secret in some contexts but not others, and it may be equally hazardous in either event. Second, whether or not a chemical's identity is a trade secret is basically a matter of an employer's self-definition; therefore, permitting non-disclosure of trade secret identity without any offsetting obligation could result in over classification of chemicals as trade secrets.

Third, the value of a trade secret, once lost, cannot be fully recaptured, although private remedies for unauthorized disclosures can result in the assessment of monetary damages and injunctive relief. And fourth, OSHA possesses neither the capacity nor expertise to act as a screen of all information which an employer is to disclose to employees and claims to be trade secret.

To accommodate these competing interests, OSHA initially proposed (August 7, 1981; 46 FR 40492) to strengthen the current trade secret protection provisions by permitting liquidated damages clauses in confidentiality agreements entered into by designated representatives. That

proposal was later merged into the current rulemaking.

OSHA further proposed other modifications of the trade secret provisions to make them more protective of trade secrets. In general, these proposed provisions would have limited the requirements of disclosure to only certain categories of highly toxic chemicals (e.g., carcinogens) and make the confidentiality agreement authorization a more meaningful protection. More particularly, the proposal included a provision which would permit the employer to withhold precise chemical identity information of hazardous chemicals which constitute a trade secret, unless the chemical is a carcinogen, mutagen, teratogen, or a cause of significant irreversible damage to human organs or body systems and there is a need to know the precise chemical name. Where trade secret identities were withheld, the proposal required the employer to:

(1) Be capable of substantiating that it is a trade secret;

(2) Identify the chemical by a generic chemical classification;

(3) Provide all other information on the properties and effects of the chemical; and

(4) In any event, release on a confidential basis the chemical identity to a treating or consulting physician who has stated in writing (except in an emergency) that a patient's health problems may be the result of occupational exposure. Since the employee's personal or treating physician may not be familiar with the toxic effects of workplace chemicals, the CAC recommended that trade secrets also be mandatorily disclosed to consulting physicians assisting in the treatment of disorders of suspect occupational causation. OSHA adopted this recommendation.

The 1980 rule permitted the employer to condition access to trade secret information by employees or their designated representatives upon the signing of a confidentiality agreement. The proposal strengthened the agreement provision by allowing that the agreement restrict use of the information to health purposes, prohibit redisclosure of the information to consulting physician, and provide for compensation or other legally appropriate relief for competitive harm which may result from a breach of the agreement. The terms of such an agreement would be worked out between the employer and the requesting party and be governed by the applicable state law. OSHA intended to

be neutral on the kinds of damages provisions that may be included.

At the hearings, Dr. Leonard Vance stated that the trade secret issue would be decided on evidence in the combined records of the hazard communication and records access rulemakings (Tr. 25). A thorough analysis of evidence concerning the trade secret issue in these combined records is found in the preamble to the Hazard Communication standard (48 FR 53280).

OSHA concluded from this analysis that in certain instances trade secret disclosure is warranted to protect the safety and health of employees. However, OSHA also recognizes that specific chemical identity information can constitute a *bona fide* trade secret, and thus has included in the final regulation provisions to protect such an identity while providing for the proper protection of exposed employees. This is accomplished by providing for limited trade secret disclosure to health professionals, employees and designated representatives under prescribed conditions of need and confidentiality.

The term "specific chemical identity" is used to describe the trade secret information being discussed. The term refers to the chemical name, the Chemical Abstracts Service (CAS) Registry Number, or any other specific information which reveals the precise chemical designation. It does not include common names.

The proposed rule did not include a definition for the term "trade secret", although OSHA has stated that it considers the definition derived from the Restatement of Torts to be the appropriate one. In response to comments suggesting that the definition be explicitly stated in the final rule, OSHA has added a definition to clarify what the Agency considers to be a trade secret for purposes of this regulation. This definition is the same as that included in the Hazard Communication standard.

Given that it is recognized that the chemical identification of a chemical may be a trade secret, the rule establishes an information disclosure scheme which requires the release of essential hazard information, and defines the terms under which the chemical identity must also be released.

In general, the regulation requires the disclosure of specific chemical identities, but permits the employer to withhold this information from disclosable records if certain conditions can be met: (1) The employer can support the claim that it is a trade secret; (2) all other information concerning the toxic substance is

disclosed as required; (3) the employer indicates that the specific chemical identity is being withheld as a trade secret; and (4) the chemical name is made available to health professionals, employees and designated representatives under certain specified situations.

In the case of a medical emergency, the employer must immediately disclose the identity of a toxic substance to a treating physician or nurse when it is needed for proper emergency or first aid treatment. As soon as circumstances permit, however, the employer may obtain a written statement of need and a confidentiality agreement as provided for above.

In non-emergency situations, employers are required to disclose the withheld specific chemical identity to employees and designated representatives, and to health professionals providing medical or other occupational health services to exposed employees if certain conditions are met.

A request for trade secret information must be in writing, and must describe with reasonable detail the medical or occupational health need for the information. To be considered a medical or occupational health need for purposes of this regulation, the health professional must be planning to use the specific chemical identity information for one or more of the following activities.

1. To assess the hazards of the chemicals to which the employees will be exposed.
2. To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels.
3. To assess or conduct pre-assignment or periodic medical surveillance of exposed employees.
4. To provide medical treatment to exposed employees.
5. To select appropriate personal protective equipment for exposed employees.
6. To assess engineering controls or other protective measures for exposed employees.
7. To conduct studies to determine the health effects of exposure.

It should be noted that for purposes of this regulation, exposure includes potential, as well as current, exposure situations. Thus the health professional, employee or designated representative will be able to obtain the necessary information prior to actual exposure, and preventive measures, if appropriate, can be implemented to avoid the occurrence of adverse health effects.

In addition, the written request must also explain in detail why the disclosure of the specific chemical identity is

essential to providing the occupational health services, and why disclosure of the following types of information would not satisfy the requesting parties need:

1. Properties and effects of the chemical.
 2. Measures for controlling workers' exposure to the chemical.
 3. Methods of monitoring and analyzing worker exposure to the chemical.
 4. Methods of diagnosing and treating harmful exposures to the chemical.
- OSHA anticipates that in many situations the alternative information will be sufficient to satisfy the health professional's needs.

The request for the information must further provide a description of the procedures to be used to protect the confidentiality of the information. An agreement not to use the information for any purpose other than the health need asserted or to release it under any circumstances other than to OSHA must also be included, and signed by the requesting party as well as the employer or contractor of the health professional or designated representative. The requirement that the employer or contractor of the health professional or designated representative be a co-signatory to the agreement applies equally regardless of whether the health professional or designated representative is providing occupational health or medical services to a labor organization, or individual employees, and regardless of whether the health professional or designated representative is being paid for his services. This makes explicit that both the principal and the agent are legally responsible for compliance with the agreement, although only the health professional or designated representative may actually have access to the specific chemical identity information.

The provisions of the confidentiality agreement may not include requiring the posting of a penalty bond. It may restrict use of the information to the purposes indicated in the statement of need, prohibit disclosure to anyone other than OSHA who have not signed an agreement, and provide for appropriate legal remedies, including stipulation of a reasonable pre-estimate of likely damages. Nothing in the regulation is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law.

If the health professional, employee or designated representative decides there is a need to disclose the information to OSHA, the employer who provided the information must be informed by the

requesting party prior to or at the same time as such disclosure.

If the employer denies the written request for information, the denial must also be in writing, and be provided within thirty days of the request. The denial must provide evidence to support the claim that the chemical identity is a trade secret, state the specific reasons why the request is being denied, and explain in detail how alternative information may satisfy the occupational health need without revealing the chemical identity.

The requesting health professional, employee or designated representative who still needs the information may then refer the matter to OSHA for consideration. The original request, as well as the written denial, must be provided to OSHA at the time of this referral. OSHA will review these documents to determine whether the employer has supported the claim that the chemical identity is a trade secret, and that the health professional has demonstrated a medical or occupational health need for the information, as well as adequate means to protect the confidentiality of the information.

If OSHA determines that the chemical identity is not a trade secret, it is not protected by the regulation and the employer will be subject to citation. Similarly, the employer will be subject to citation if the specific chemical identity is a trade secret, but the requesting party has demonstrated a medical or occupational health need, executed a confidentiality agreement, and has shown adequate means for complying with the terms of the confidentiality agreement. Abatement of the citation will most likely be to divulge the specific chemical identity subject to the confidentiality agreement. However, consistent with the power given to the Secretary in section 15 of the Act, if the employer demonstrates to OSHA that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret chemical identity, the Assistant Secretary may issue such orders or impose such additional limitations or conditions upon disclosure as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the employer. It is contemplated that the Assistant Secretary would personally review and approve such orders, limitations or conditions. The employer is required to divulge to the Assistant Secretary or designee any information required under this regulation. However, the employer may

claim trade secret status at the time the information is provided, and the Assistant Secretary will make the necessary arrangements to ensure protection of such trade secrets, in accordance with the provisions of section 15 of the Act.

The amended trade secrets provisions of this regulation are identical to those for the Hazard Communication standard. OSHA believes that this is an important benefit of the amended provisions since the purposes and policies of both regulations, disclosure of chemical identities, knowledge of hazards and means for health protection, and trade secret provisions are similar. In addition, it is administratively convenient both to the public and OSHA for the provisions to be similar. There are two differences between OSHA's Hazard Communication standard and this rule with regard to trade secret disclosure. First, the Hazard Communication standard presently applies only to chemical manufacturers, distributors and importers, and to all employers in SIC Codes 20 through 39 (Division D, Standard Industrial Classification Manual). The records access rule, on the other hand, applies broadly to all employers in general industry, construction and maritime.

Second, the Hazard Communication standard contemplates disclosure to health professionals who may represent employers and employees other than those of the trade secret holder (i.e., "downstream" disclosure). The Records Access rule does not provide "downstream" employees or designated representatives access rights to trade secret information.

The decision to retain for employee and designated representative as well as health professional access to trade secret chemical identities in the final Records Access rule in further supported by the recent *Supreme Court* decision, *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, et al. The Court held that whenever a federal agency contemplates revoking or modifying an existing rule, it shoulders the same burden to justify its decision to revoke or modify the standard as if it were issuing it in the first place.

As noted above, the 1980 regulation provided for unrestricted employee and designated representative access to trade secret chemical identities conditioned solely upon signing a confidentiality agreement. Insufficient evidence was presented indicating the employee and designated representative access was unfairly jeopardizing

employees' trade secrets. Therefore, the evidence does not justify restricting access to trade secrets to physicians or health professionals as contemplated by the proposal and advocated by several commenters.

However, OSHA has decided that *bona fide* trade secrets do deserve greater protection than provided in the 1980 regulation, and has therefore established the more stringent access procedures noted above.

H. X-ray Microfilming

Paragraph (d)(2) of the 1980 regulation stated that "nothing in this section is intended to mandate the form, manner, or process by which an employer preserves a record so long as the information contained in the record is preserved and retrievable, except that X-ray films shall be preserved in their original state." The X-ray preservation requirement resulted from a finding by OSHA at that time that the diagnostic detail of certain X-rays could be lost when the original X-ray is microfilmed. X-rays related to a possible diagnosis of pneumoconiosis are particularly susceptible to this loss of detail. Pneumoconiosis is the accumulation of dust in the lungs and the tissue reaction to its presence. Inhalation of the dusts of coal, aluminum, beryllium, asbestos, aluminum oxide, silica, hematite (iron oxide), talc, kaolin, mica and cement are commonly associated with the development of pneumoconiosis. The earliest diagnostic indications of pneumoconiosis are often barely perceptible changes in the chest X-ray.

Following promulgation of the 1980 rule, OSHA received comments from a number of interested parties concerning the requirement that X-rays be kept in their original state (Exs. 3-3, 3-5, 3-8, 3-10, 3-15). They argued in general that modern microfilm processes can reduce X-rays for storage without an appreciable loss of diagnostic detail. Also, they maintained that microfilm storage is preferable for long-term X-ray preservation due to the fact that microfilm processes use archival materials which are specially resistant to fading and decay. By contrast, original X-rays can fade and crack over time to the possible detriment of their diagnostic value.

In response, OSHA proposed allowing the microfilm storage of X-rays if performed under the supervision of a licensed radiologist who is a diplomate of the American Board of Radiology. In addition, for the microfilm storage of a chest X-ray where the subject worker has been exposed to a substance known to cause pneumoconiosis, the proposal

required that the supervising radiologist consult with and obtain the written approval of the microfilm process from both: (a) A licensed physician who is a diplomate of the American Board of Internal Medicine certified in the subspecialty of pulmonary disease, and (b) a "B" reader certified by the National Institute for Occupational Safety and Health (NIOSH). OSHA stated in the proposal its belief that the microfilming of chest X-rays of workers exposed to toxic substances known to cause pneumoconiosis deserves separate consideration. In this case extremely fine shadings of image density are often required for proper analysis and diagnosis. Therefore there is an increased risk that diagnostic detail could be lost if current standard microfilm processes are used.

At the public hearing, Dr. William S. Cole, M.D., appeared on behalf of the Task Force on Pneumoconiosis of the American College of Radiology. He testified that the Task Force recommends that OSHA not permit the microfilming or other minification of chest X-rays, but could allow the minification of other X-rays provided that any original and subsequent interpretations of the X-rays are also microfilmed. Dr. Cole testified that:

The Task Force advanced three compelling reasons against optical minification techniques.

1. A loss of image detail inherent in any copying method;
2. An absence of medically accepted standards for minification quality; and
3. The presence of unavoidable variables introduced into viewing by dependence upon projectors and screens. (Tr. 254)

Dr. Cole summarized the Task Force recommendations as follows:

1. Require that chest radiographs be retained in their original form along with copies of original and subsequent interpretations;
2. Allow the copying of other radiologic images, subject to this first regulation, by any optical or electronic copying method acceptable to the institution or organization retaining custody, but only under the supervision of a radiologist to ensure that integrity of the image;
3. Expand the definition of a radiologist to include a physician appropriately credentialed by the American Osteopathic Board of Radiology; and
4. Require that the written interpretive reports accompanying the images also be copied and retained. (Tr. 256)

NIOSH and the American Lung Association also took the position that the microfilming of chest X-rays should not be permitted (Ex. 4-48; Tr. 108).

Several commenters opposed the Task Force recommendations (Ex. 4-4, 4-6, 4-60). In opposing the ban on microfilming

X-rays, Mr. Stephen Fisher (Radiological Systems Microfilm Association) stated in his post-hearing comments that:

If in fact OSHA adopts a ruling which disallows the microfilming of chest x-rays * * * OSHA will have done a great disservice to the people that they are trying to protect—the potentially exposed industrial worker. His radiographs will then be left to deteriorate beyond the point of any medical value. (Ex. 53, p. 1)

However, when questioned about the potential degradation of X-rays, Dr. Cole stated:

The old acetate emulsions that were used years ago did degrade. But the ones that are being made available today, I haven't seen it and I have seen films that are 20, 25 years old and I have not seen any degradation of the image, no. (Tr. 262)

Based primarily on the testimony of Dr. Cole and the American College of Radiology, OSHA has decided to permit the microfilming of all X-rays except for chest X-rays, which must continue to be retained in their original form. However, all permitted X-ray microfilming must be performed in accordance with generally accepted medical practice.

I. Duty to Inform Employees

The 1980 regulation required in paragraph (g)(1) that "upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform employees exposed to toxic substances or harmful physical agents of (the regulation)." "Employees" was defined under paragraph (c)(4) as including former employees. Therefore the regulation was susceptible to the interpretation that employers were required to inform former employees of the provisions of the regulation (see Ex. 3-62). This was not OSHA's original intent. To clarify OSHA's intent, the proposal inserted the word "current" into paragraphs (g)(1) and (g)(2) to indicate that the employer's notification responsibility extends only to employees currently employed. No comments in opposition to this proposed modification were received and it has been adopted for the final rule.

J. Federal Employees

This regulation applies to Federal agencies under Executive Order 12196. However, the retention of records of Federal employees is regulated by the National Archives and Records Service, General Services Administration (GSA) under 44 U.S.C. 3303a (Ex. 57), which supersedes the OSHA access standard. GSA Bulletin FPMR B-117 (Ex. 57, Att. 1) contains guidelines designed to ensure agency compliance with the records

disposition provisions of the Federal Records Act.

IV. Regulatory Impact Assessment and Regulatory Flexibility Certification

A. Introduction

Executive Order 12291 (46 FR 13197, February 19, 1981) provides for the development of a "regulatory analysis" when a regulation has major economic consequences for the general economy, individual industries, geographical regions or levels of government. E.O. 12291 replaced Executive Order 12044, which also had provided for regulatory analyses of major standards.

OSHA issued the original access to exposure and medical records rule on May 23, 1980 (45 FR 35212-35303). At that time, OSHA concluded that this regulation would impose compliance costs below the Executive Order 12044 threshold of \$100 million in annual costs for the economy. This assessment was based on the determination that the rule would not require the creation of new records or reports, nor would it impose any additional environmental or employee monitoring or medical surveillance requirements. Finally, the rule was performance-oriented, in that the content of exposure and medical records was left to the employer. As a result, OSHA determined that a formal regulatory analysis under E.O. 12044 was unnecessary.

On July 13, 1982, OSHA issued the proposed modifications to the access to employee exposure and medical records regulation (47 FR 30420-30438).

At that time OSHA concluded that the proposed revisions would further lower compliance costs while causing no significant impact on competition, productivity, domestic investment, employment, innovation, or foreign competition—the criteria required to be considered under the current Executive Order. For these reasons, the proposed regulation was not considered major under the new E.O. 12291.

The final regulation will also impose less than \$100 million in annual costs to the economy. This is because the final rule leaves intact most of the provisions of the current rule. The sections of the final regulation that differ from the current regulation (e.g., allowing the minification of X-rays other than chest X-rays, providing greater trade secret protection, and excluding first aid records, and elimination of record retention for short-term employees) will reduce the costs of the current rule with no diminution of the rule's benefits.

The final regulation will also not have a disproportionate economic impact on

small entities. Likewise, the Regulatory Flexibility Act of 1980 (Pub. L. 96-353, 94 Stat. 1164 (5. U.S.C. 601 *et seq.*)) requires that OSHA give special consideration to the economic impact of the proposed rule on small entities. Such consideration should include a description of regulatory alternatives and estimates of the impacts of reporting, recordkeeping, and other compliance requirements in order to minimize any significant impact of the proposed regulation on small entities.

B. Summary of Costs

Several provisions of the modified rule will significantly reduce compliance costs of the regulation when compared to the 1980 rule. Major cost-saving modifications include: (1) Exempting medical records of short-term employees from the regulation's long-term retention requirements; (2) exempting most first aid records from the regulation's retention requirements; (3) modifying the broad-based rights of designated representatives to gain unconsented access to employee exposure records; and (4) modifying the absolute prohibition on the microfilm storage of employee X-rays.

Exempting the medical records of short-term employees from the long-term preservation requirements of the regulation should result in significant savings. Based on employment levels in the affected industries and on the National Institute for Occupational Safety and Health (NIOSH) National Occupational Health Survey OSHA has estimated that about 10.1 million medical records would be generated annually. Of those 10.1 million medical records, approximately 20 percent (2 million) medical records per year would be exempted from the requirement to retain medical records for the duration of employment plus thirty years. These records would be given to the employee, enabling the construction of a work life medical history for that employee.

Records of first aid treatment for minor scratches, cuts, burns, splinters, etc. have also been exempted from the regulation's retention requirements. OSHA has not estimated the volume of records covered by this exemption. Testimony of construction industry employers indicates that savings would be significant since the majority of medical records generated in this industry are first aid records.

The modified rule also requires designated representatives seeking unconsented access to employee exposure records to state with reasonable particularity the records requested, the specific occupational health need for these records. This

provision would permit employers to respond to a request with only those records needed. This provision therefore provides a specific alternative to blanket requests for records far in excess of what is needed to satisfy a particular occupational health concern.

Finally, the regulation permits the microfilm storage of all employee X-rays except chest X-rays. This provision reduces compliance costs by allowing less expensive storage of X-rays other than chest X-rays.

OSHA estimated in 1980 that the costs of the records access regulation would not exceed \$100 million annually. This estimate was little contested in the rulemaking record. OSHA's review of the cost-saving provisions of the modified rule supports the conclusion that compliance costs with the modified rule will also be less than \$100 million annually. No modifications have been made to the rule which would increase compliance costs.

C. Summary of Benefits

Employee medical and exposure records are potentially important to the detection, treatment, and prevention of occupational disease. If workers and their representatives are to play a meaningful role in their own health management they must have an opportunity to review their medical and exposure records. Access will enable workers and their personal physicians to uncover patterns of health impairment and disease. Access to exposure and medical records and long-term preservation of these records may also facilitate formal occupational health research on substances for which little scientific health data presently exist.

The trade secret modifications allow employers adequate trade secret protections while providing requesting parties access to the necessary information without the requirement for bonding and liquidated damages. Also, the final rule will provide employee protection equivalent to that provided in the 1980 standard while lowering costs to employers.

D. Regulatory Flexibility Analysis

The impact of the 1980 access rule on small businesses was determined to be insignificant. According to the 1972 NOH survey, only 1.4 percent of all small firms (8-250 employees) regularly monitored workplace environmental conditions. Only 2.3 percent of these firms had a formally established health unit. Approximately one-half of all small firms collected some preemployment health information on new employees, but less than 10 percent provided

periodic medical exams to workers. The U.S. Department of Commerce County Business Patterns 1977 (Ex. 81) estimates that more than 68 percent of all employees work in firms of less than 250 employees.

To summarize the results of the NOH survey as it pertains to small entities.

(1) Most small firms do not collect health information beyond that on new employees.

(2) Few small firms provide formal or periodic health care, and

(3) Few small firms regularly monitor workplace environmental conditions.

Although these percentages cited above have probably increased in the last decade, the vast majority of small entities will not be affected by the regulation because medical surveillance and environmental monitoring are not required. The regulation does require that firms creating medical and exposure records must keep them and grant employee access to them. Since few small entities create or store such records, the economic impact of the regulation on these firms is small.

List of Subjects in 29 CFR Part 1910

Occupational safety and health, Health, Health records.

V. Authority And Signature

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210. Pursuant to sections 8(c) and 8(g) of the Occupational Safety and Health Act of 1970.

Pursuant to 29 U.S.C., 657; 29 CFR Part 1911; and Secretary of Labor's Order No. 9-83 (48 FR 35736), 29 CFR 1910 is amended as set forth below.

Signed at Washington, DC this 20th day of September, 1988.

John A. Pendergrass,
Assistant Secretary for Occupational Safety and Health.

Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as follows:

PART 1910—[AMENDED]

1. The authority citation for Subpart C of Part 1910 is revised to read as set forth below:

Authority: Section 8 of the Occupational Safety and Health Act, 29 U.S.C. 657; Secretary of Labor's Order No. 9-83 (48 FR 35736) and 29 CFR Part 1911.

2. Section 1910.20 is revised to read as follows:

§ 1910.20 Access to employee exposure and medical records.

(a) *Purpose.* The purpose of this section is to provide employees and their designated representatives a right of access to relevant exposure and medical records; and to provide representatives of the Assistant Secretary a right of access to these records in order to fulfill responsibilities under the Occupational Safety and Health Act. Access by employees, their representatives, and the Assistant Secretary is necessary to yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease. Each employer is responsible for assuring compliance with this section, but the activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer, by the physician or other health care personnel in charge of employee medical records. Except as expressly provided, nothing in this section is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information, the duty to disclose information to a patient/employee or any other aspect of the medical-care relationship, or affect existing legal obligations concerning the protection of trade secret information.

(b) *Scope and application.* (1) This section applies to each general industry, maritime, and construction employer who makes, maintains, contracts for, or has access to employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents.

(2) This section applies to all employee exposure and medical records, and analyses thereof, of such employees, whether or not the records are mandated by specific occupational safety and health standards.

(3) This section applies to all employee exposure and medical records, and analyses thereof, made or maintained in any manner, including on an in-house of contractual (e.g., fee-for-service) basis. Each employer shall assure that the preservation and access requirements of this section are complied with regardless of the manner in which the records are made or maintained.

(c) *Definitions.* (1) "Access" means the right and opportunity to examine and copy.

(2) "Analysis using exposure or medical records" means any compilation of data or any statistical study based at least in part on information collected from individual

employee exposure or medical records or information collected from health insurance claims records, provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis.

(3) "Designated representative" means any individual or organization to whom an employee gives written authorization to exercise a right of access. For the purposes of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

(4) "Employee" means a current employee, a former employee, or an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. In the case of a deceased or legally incapacitated employee, the employee's legal representative may directly exercise all the employee's rights under this section.

(5) "Employee exposure record" means a record containing any of the following kinds of information:

(i) Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;

(ii) Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs;

(iii) Material safety data sheets indicating that the material may pose a hazard to human health; or

(iv) In the absence of the above, a chemical inventory or any other record which reveals where and when used and the identity (e.g., chemical, common, or trade name) of a toxic substance or harmful physical agent.

(6)(i) "Employee medical record" means a record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel or technician, including:

(A) Medical and employment questionnaires or histories (including job description and occupational exposures),

(B) The results of medical examinations (pre-employment, pre-assignment, periodic, or episodic) and laboratory tests (including chest and other X-ray examinations taken for the purposes of establishing a base-line or detecting occupational illness, and all biological monitoring not defined as an "employee exposure record"),

(C) Medical opinions, diagnoses, progress notes, and recommendations,

(D) First aid records,

(E) Descriptions of treatments and prescriptions, and

(F) Employee medical complaints.

(ii) "Employee medical record" does not include medical information in the form of:

(A) Physical specimens (e.g., blood or urine samples) which are routinely discarded as a part of normal medical practice; or

(B) Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier (e.g., social security number, payroll number, etc.); or

(C) Records created solely in preparation for litigation which are privileged from discovery under the applicable rules of procedure or evidence; or

(D) Records concerning voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs) if maintained separately from the employer's medical program and its records.

(7) "Employer" means a current employer, a former employer, or a successor employer.

(8) "Exposure" or "exposed" means that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes past exposure and potential (e.g., accidental or possible) exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations.

(9) "Health Professional" means a physician, occupational health nurse, industrial hygienist, toxicologist, or epidemiologist, providing medical or other occupational health services to exposed employees.

(10) "Record" means any item, collection, or grouping of information regardless of the form or process by

which it is maintained (e.g., paper document, microfiche, microfilm, X-ray film, or automated data processing).

(11) "Specific chemical identity" means the chemical name, Chemical Abstracts Service (CAS) Registry Number, or any other information that reveals the precise chemical designation of the substance.

(12)(i) "Specific written consent" means a written authorization containing the following:

(A) The name and signature of the employee authorizing the release of medical information,

(B) The date of the written authorization,

(C) The name of the individual or organization that is authorized to release the medical information,

(D) The name of the designated representative (individual or organization) that is authorized to receive the released information,

(E) A general description of the medical information that is authorized to be released,

(F) A general description of the purpose for the release of the medical information, and

(G) A date or condition upon which the written authorization will expire (if less than one year).

(ii) A written authorization does not operate to authorize the release of medical information not in existence on the date of written authorization, unless the release of future information is expressly authorized, and does not operate for more than one year from the date of written authorization.

(iii) A written authorization may be revoked in writing prospectively at any time.

(13) "Toxic substance or harmful physical agent" means any chemical substance, biological agent (bacteria, virus, fungus, etc.), or physical stress (noise, heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypo- or hyperbaric pressure, etc.) which:

(i) Is listed in the least printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS); or

(ii) Has yielded positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer; or

(iii) Is the subject of a material safety data sheet kept by or known to the employer indicating that the material may pose a hazard to human health.

(14) "Trade secret" means any confidential formula, pattern, process, device, or information or compilation of information that is used in an

employer's business and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

(d) *Preservation of records.* (1) Unless a specific occupational safety and health standard provides a different period of time, each employer shall assure the preservation and retention of records as follows:

(i) *Employee medical records.* The medical record for each employee shall be preserved and maintained for at least the duration of employment plus thirty (30) years, except that the following types of records need not be retained for any specified period:

(A) Health insurance claims records maintained separately from the employer's medical program and its records,

(B) First aid records (not including medical histories) of one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and the like which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job, if made on-site by a non-physician and if maintained separately from the employer's medical program and its records, and

(C) The medical records of employees who have worked for less than (1) year for the employer need not be retained beyond the term of employment if they are provided to the employee upon the termination of employment.

(ii) *Employee exposure records.* Each employee exposure record shall be preserved and maintained for at least thirty (30) years, except that:

(A) Background data to environmental (workplace) monitoring or measuring, such as laboratory reports and worksheets, need only be retained for one (1) year as long as the sampling results, the collection methodology (sampling plan), a description of the analytical and mathematical methods used, and a summary of other background data relevant to interpretation of the results obtained, are retained for at least thirty (30) years; and

(B) Material safety data sheets and paragraph (c)(5)(iv) records concerning the identity of a substance or agent need not be retained for any specified period as long as some record of the identity (chemical name if known) of the substance or agent, where it was used, and when it was used is retained for at least thirty (30) years;¹ and

¹ Material safety data sheets must be kept for those chemicals currently in use that are effected by the Hazard Communication Standard in accordance with 29 CFR 1910.1200(g).

(C) Biological monitoring results designated as exposure records by specific occupational safety and health standards shall be preserved and maintained as required by the specific standard.

(iii) *Analyses using exposure or medical records.* Each analysis using exposure or medical records shall be preserved and maintained for at least thirty (30) years.

(2) Nothing in this section is intended to mandate the form, manner, or process by which an employer preserves a record as long as the information contained in the record is preserved and retrievable, except that chest X-ray films shall be preserved in their original state.

(e) *Access to records.*—(1) *General.* (i) Whenever an employee or designated representative requests access to a record, the employer shall assure that access is provided in a reasonable time, place, and manner. If the employer cannot reasonably provide access to the record within fifteen (15) working days, the employer shall within the fifteen (15) working days apprise the employee or designated representative requesting the record of the reason for the delay and the earliest date when the record can be made available.

(ii) The employer may require of the requester only such information as should be readily known to the requester and which may be necessary to locate or identify the records being requested (e.g. dates and locations where the employee worked during the time period in question).

(iii) Whenever an employee or designated representative requests a copy of a record, the employer shall assure that either:

(A) A copy of the record is provided without cost to the employee or representative,

(B) The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record, or

(C) The record is loaned to the employee or representative for a reasonable time to enable a copy to be made.

(iv) In the case of an original X-ray, the employer may restrict access to on-site examination or make other suitable arrangements for the temporary loan of the X-ray.

(v) Whenever a record has been previously provided without cost to an employee or designated representative, the employer may charge reasonable, non-discriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a

request by the employee or designated representative for additional copies of the record, except that

(A) An employer shall not charge for an initial request for a copy of new information that has been added to a record which was previously provided; and

(B) An employer shall not charge for an initial request by a recognized or certified collective bargaining agent for a copy of an employee exposure record or an analysis using exposure or medical records.

(vi) Nothing in this section is intended to preclude employees and collective bargaining agents from collectively bargaining to obtain access to information in addition to that available under this section.

(2) *Employee and designated representative access*—(i) *Employee exposure records.* (A) Except as limited by paragraph (f) of this section, each employer shall, upon request, assure the access to each employee and designated representative to employee exposure records relevant to the employee. For the purpose of this section, an exposure record relevant to the employee consists of:

(1) A record which measures or monitors the amount of a toxic substance or harmful physical agent to which the employee is or has been exposed;

(2) In the absence of such directly relevant records, such records of other employees with past or present job duties or working conditions related to or similar to those of the employee to the extent necessary to reasonably indicate the amount and nature of the toxic substances or harmful physical agents to which the employee is or has been subjected, and

(3) Exposure records to the extent necessary to reasonably indicate the amount and nature of the toxic substances or harmful physical agents at workplaces or under working conditions to which the employee is being assigned or transferred.

(B) Requests by designated representatives for unconsented access to employee exposure records shall be in writing and shall specify with reasonable particularity:

(1) The records requested to be disclosed; and

(2) The occupational health need for gaining access to these records.

(ii) *Employee medical records.* (A) Each employer shall, upon request, assure the access of each employee to employee medical records of which the employee is the subject, except as provided in paragraph (e)(2)(ii)(D) of this section.

(B) Each employer shall, upon request, assure the access of each designated representative to the employee medical records of any employee who has given the designated representative specific written consent. Appendix A to this section contains a sample form which may be used to establish specific written consent for access to employee medical records.

(C) Whenever access to employee medical records is requested, a physician representing the employer may recommend that the employee or designated representative:

(1) Consult with the physician for the purposes of reviewing and discussing the records requested,

(2) Accept a summary of material facts and opinions in lieu of the records requested, or

(3) Accept release of the requested records only to a physician or other designated representative.

(D) Whenever an employee requests access to his or her employee medical records, and a physician representing the employer believes that direct employee access to information contained in the records regarding a specific diagnosis of a terminal illness or a psychiatric condition could be detrimental to the employee's health, the employer may inform the employee that access will only be provided to a designated representative of the employee having specific written consent, and deny the employee's request for direct access to this information only. Where a designated representative with specific written consent requests access to information so withheld, the employer shall assure the access of the designated representative to this information, even when it is known that the designated representative will give the information to the employee.

(E) A physician, nurse, or other responsible health care personnel maintaining medical records may delete from requested medical records the identity of a family member, personal friend, or fellow employee who has provided confidential information concerning an employee's health status.

(iii) *Analyses using exposure or medical records.* (A) Each employee shall, upon request, assure the access of each employee and designated representative to each analysis using exposure or medical records concerning the employee's working conditions or workplace.

(B) Whenever access is requested to an analysis which reports the contents of employee medical records by either direct identifier (name, address, social security number, payroll number, etc.) or

by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.), the employer shall assure that personal identifiers are removed before access is provided. If the employer can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided.

(3) *OSHA access.* (i) Each employer shall, upon request, and without derogation of any rights under the Constitution or the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, that the employer chooses to exercise, assure the prompt access of representatives of the Assistant Secretary of Labor for Occupational Safety and Health to employee exposure and medical records and to analyses using exposure or medical records. Rules of agency practice and procedure governing OSHA access to employee medical records are contained in 29 CFR 1913.10.

(ii) Whenever OSHA seeks access to personally identifiable employee medical information by presenting to the employer a written access order pursuant to 29 CFR 1913.10(d), the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least fifteen (15) working days.

(f) *Trade secrets.* (1) Except as provided in paragraph (f)(2) of this section, nothing in this section precludes an employer from deleting from records requested by a health professional, employee, or designated representative any trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in mixture, as long as the health professional, employee, or designated representative is notified that information has been deleted. Whenever deletion of trade secret information substantially impairs evaluation of the place where or the time when exposure to a toxic substance or harmful physical agent occurred, the employer shall provide alternative information which is sufficient to permit the requesting party to identify where and when exposure occurred.

(2) The employer may withhold the specific chemical identity, including the chemical name and other specific identification of a toxic substance from a disclosable record provided that:

(i) The claim that the information withheld is a trade secret can be supported;

(ii) All other available information on the properties and effects of the toxic substance is disclosed;

(iii) The employer informs the requesting party that the specific chemical identity is being withheld as a trade secret; and

(iv) The specific chemical identity is made available to health professionals, employees and designated representatives in accordance with the specific applicable provisions of this paragraph.

(3) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a toxic substance is necessary for emergency or first-aid treatment, the employer shall immediately disclose the specific chemical identity of a trade secret chemical to the treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of paragraphs (f)(4) and (f)(5), as soon as circumstances permit.

(4) In non-emergency situations, an employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under paragraph (f)(2) of this section, to a health professional, employee, or designated representative if:

(i) The request is in writing;

(ii) The request describes with reasonable detail one or more of the following occupational health needs for the information:

(A) To assess the hazards of the chemicals to which employees will be exposed;

(B) To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

(C) To conduct pre-assignment or periodic medical surveillance of exposed employees;

(D) To provide medical treatment to exposed employees;

(E) To select or assess appropriate personal protective equipment for exposed employees;

(F) To design or assess engineering controls or other protective measures for exposed employees; and

(G) To conduct studies to determine the health effects of exposure.

(iii) The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information would not enable the health professional, employee or designated representative to provide the

occupational health services described in paragraph (f)(4)(ii) of this section:

(A) The properties and effects of the chemical;

(B) Measures for controlling workers' exposure to the chemical;

(C) Methods of monitoring and analyzing worker exposure to the chemical; and,

(D) Methods of diagnosing and treating harmful exposures to the chemical;

(iv) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and,

(v) The health professional, employee, or designated representative and the employer or contractor of the services of the health professional or designated representative agree in a written confidentiality agreement that the health professional, employee or designated representative will not use the trade secret information for any purpose other than the health need(s) asserted and agree not to release the information under any circumstances other than to OSHA, as provided in paragraph (f)(9) of this section, except as authorized by the terms of the agreement or by the employer.

(5) The confidentiality agreement authorized by paragraph (f)(4)(iv) of this section:

(i) May restrict the use of the information to the health purposes indicated in the written statement of need;

(ii) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and,

(iii) May not include requirements for the posting of a penalty bond.

(6) Nothing in this section is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law.

(7) If the health professional, employee or designated representative receiving the trade secret information decides that there is a need to disclose it to OSHA, the employer who provided the information shall be informed by the health professional prior to, or at the same time as, such disclosure.

(8) If the employer denies a written request for disclosure of a specific chemical identity, the denial must:

(i) Be provided to the health professional, employee or designated representative within thirty days of the request;

(ii) Be in writing;

(iii) Include evidence to support the claim that the specific chemical identity is a trade secret;

(iv) State the specific reasons why the request is being denied; and,

(v) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(9) The health professional, employee, or designated representative whose request for information is denied under paragraph (f)(4) of this section may refer the request and the written denial of the request to OSHA for consideration.

(10) When a health professional, employee, or designated representative refers a denial to OSHA under paragraph (f)(9) of this section, OSHA shall consider the evidence to determine if:

(i) The employer has supported the claim that the specific chemical identity is a trade secret;

(ii) The health professional, employee, or designated representative has supported the claim that there is a medical or occupational health need for the information; and

(iii) The health professional, employee or designated representative has demonstrated adequate means to protect the confidentiality.

(11)(i) If OSHA determines that the specific chemical identity requested under paragraph (f)(4) of this section is not a *bona fide* trade secret, or that it is a trade secret but the requesting health professional, employee or designated representatives has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means for complying with the terms of such agreement, the employer will be subject to citation by OSHA.

(ii) If an employer demonstrates to OSHA that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret specific chemical identity, the Assistant Secretary may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health needs are met without an undue risk of harm to the employer.

(12) Notwithstanding the existence of a trade secret claim, an employer shall, upon request, disclose to the Assistant Secretary any information which this section requires the employer to make available. Where there is a trade secret claim, such claim shall be made no later than at the time the information is

provided to the Assistant Secretary so that suitable determinations of trade secret status can be made and the necessary protections can be implemented.

(13) Nothing in this paragraph shall be construed as requiring the disclosure under any circumstances of process or percentage of mixture information which is trade secret.

(g) *Employee information.* (1) Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform current employees covered by this section of the following:

(i) The existence, location, and availability of any records covered by this section;

(ii) The person responsible for maintaining and providing access to records; and

(iii) Each employee's rights of access to these records.

(2) Each employer shall keep a copy of this section and its appendices, and make copies readily available, upon request, to employees. The employer shall also distribute to current employees any informational materials concerning this section which are made available to the employer by the Assistant Secretary of Labor for Occupational Safety and Health.

(h) *Transfer of records.* (1) Whenever an employer is ceasing to do business, the employer shall transfer all records subject to this section to the successor employer. The successor employer shall receive and maintain these records.

(2) Whenever an employer is ceasing to do business and there is no successor employer to receive and maintain the records subject to this standard, the employer shall notify affected current employees of their rights of access to records at least three (3) months prior to the cessation of the employer's business.

(3) Whenever an employer either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least thirty (30) years, the employer shall:

(i) Transfer the records to the Director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard; or

(ii) Notify the Director of NIOSH in writing of the impending disposal of records at least three (3) months prior to the disposal of the records.

(4) Where an employer regularly disposes of records required to be preserved for at least thirty (30) years, the employer may, with at least (3)

months notice, notify the Director of NIOSH on an annual basis of the records intended to be disposed of in the coming year.

(i) *Appendices.* The information contained in appendices A and B to this section is not intended, by itself, to create any additional obligations not otherwise imposed by this section nor detract from any existing obligation.

Appendix A to § 1910.20—Sample Authorization Letter for the Release of Employee Medical Record Information to a Designated Representative (Non-Mandatory)

I, _____ (full name of worker/patient), hereby authorize _____ (individual or organization holding the medical records) to release to _____ (individual or organization authorized to receive the medical information), the following medical information from my personal medical records:

(Describe generally the information desired to be released)

I give my permission for this medical information to be used for the following purpose:

but I do not give permission for any other use or re-disclosure of this information.

(Note: Several extra lines are provided below so that you can place additional restrictions on this authorization letter if you want to. You may, however, leave these lines blank. On the other hand, you may want to (1) specify a particular expiration date for this letter (if less than one year); (2) describe medical information to be created in the future that you intend to be covered by this authorization letter; or (3) describe portions of the medical information in your records which you do not intend to be released as a result of this letter.)

Full name of Employee or Legal Representative

Signature of Employee or Legal Representative

Date of Signature

Appendix B to § 1910.20—Availability of NIOSH Registry of Toxic Effects of Chemical Substances (RTECS) (Non-Mandatory)

The final regulation, 29 CFR 1910.20, applies to all employee exposure and medical records, and analyses thereof, of employees exposed to toxic substances or harmful physical agents (paragraph (b)(2)). The term "toxic substance or harmful physical agent" is defined by paragraph (c)(13) to encompass chemical substances, biological agents, and physical stresses for which there is evidence

of harmful health effects. The regulation uses the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) as one of the chief sources of information as to whether evidence of harmful health effects exists. If a substance is listed in the latest printed RTECS, the regulation applies to exposure and medical records (and analyses of these records) relevant to employees exposed to the substance.

It is appropriate to note that the final regulation does not require that employers purchase a copy of RTECS, and many employers need not consult RTECS to ascertain whether their employee exposure or medical records are subject to the rule. Employers who do not currently have the latest printed edition of the NIOSH RTECS, however, may desire to obtain a copy. The RTECS is issued in an annual printed edition as mandated by section 20(a)(6) of the Occupational Safety and Health Act (29 U.S.C. 669(a)(6)).

The Introduction to the 1980 printed edition describes the RTECS as follows:

"The 1980 edition of the Registry of Toxic Effects of Chemical Substances, formerly known as the Toxic Substances list, is the ninth revision prepared in compliance with the requirements of Section 20(a)(6) of the Occupational Safety and Health Act of 1970 (Public Law 91-596). The original list was completed on June 28, 1971, and has been updated annually in book format. Beginning in October 1977, quarterly revisions have been provided in microfiche. This edition of the Registry contains 168,096 listings of chemical substances; 45,156 are names of different chemicals with their associated toxicity data and 122,940 are synonyms. This edition includes approximately 5,900 new chemical compounds that did not appear in the 1979 Registry. (p. xi)

"The Registry's purposes are many, and it serves a variety of users. It is a single source document for basic toxicity information and for other data, such as chemical identifiers and information necessary for the preparation of safety directives and hazard evaluations for chemical substances. The various types of toxic effects linked to literature citations provide researchers and occupational health scientists with an introduction to the toxicological literature, making their own review of the toxic hazards of a given substance easier. By presenting data on the lowest reported doses that produce effects by several routes of entry in various species, the Registry furnishes valuable information to those responsible for preparing safety data sheets for chemical substances in the workplace. Chemical and production engineers can use the Registry to identify the hazards which may be associated with chemical intermediates in the development of final products, and thus can more readily select substitutes or alternative processes which may be less hazardous. Some organizations, including health agencies and chemical companies, have included the NIOSH Registry accession numbers with the listing of chemicals in their files to reference toxicity information associated with those

chemicals. By including foreign language chemical names, a start has been made toward providing rapid identification of substances produced in other countries. (p. xi)

"In this edition of the Registry, the editors intend to identify 'all known toxic substances' which may exist in the environment and to provide pertinent data on the toxic effects from known doses entering an organism by any route described. (p. xi)

"It must be reemphasized that the entry of a substance in the Registry does not automatically mean that it must be avoided. A listing does mean, however, that the substance has the documented potential of being harmful if misused, and care must be exercised to prevent tragic consequences. Thus, the Registry lists many substances that

are common in everyday life and are in nearly every household in the United States. One can name a variety of such dangerous substances: prescription and non-prescription drugs; food additives; pesticide concentrates, sprays, and dusts; fungicides; herbicides; paints; glazes, dyes; bleaches and other household cleaning agents; alkalies; and various solvents and diluents. The list is extensive because chemicals have become an integral part of our existence."

The RTECS printed edition may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402 (202-783-3238).

Some employers may desire to subscribe to the quarterly update to the RTECS which is published in a microfiche edition. An annual subscription to the quarterly microfiche may

be purchased from the GPO (Order the "Microfiche Edition, Registry of Toxic Effects of Chemical Substances"). Both the printed edition and the microfiche edition of RTECS are available for review at many university and public libraries throughout the country. The latest RTECS editions may also be examined at the OSHA Technical Data Center, Room N2439—Rear, United States Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (202-523-9700), or at any OSHA Regional or Area Office (See, major city telephone directories under United States Government-Labor Department).

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Defense Federal Register

**Thursday
September 29, 1988**

Part III

Department of Defense

48 CFR Ch. 2

**Defense Federal Acquisition Regulation
Supplement; Miscellaneous Amendments;
Notice, Final and Interim Rules**

DEPARTMENT OF DEFENSE

[Defense Acquisition Circulars Nos. 6 through 16]

Defense Federal Acquisition Regulation Supplement;

AGENCY: Department of Defense (DoD).

ACTION: Notice of Publication of Defense Acquisition Circulars Nos. 6 through 16.

SUMMARY: The Department of Defense is publishing Defense Acquisition

Circulars (DACs) Number 86-6 through Number 86-16, in their entirety, as final rules or as interim rules in the Rules and Regulations Section of this **Federal Register**. These DACs were issued over a 10-month period. Prior to issuance of each DAC's those revisions having a significant impact on contractors or offerors were published in the **Federal Register**, as proposed rules or interim rules with request for public comment. The DACs also contain internal DoD

(nonsubstantive) material which was not published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[FR Doc. 88-22063 Filed 9-28-88; 8:45 am]

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DEPARTMENT OF DEFENSE

48 CFR Parts 202, 204, 205, 207, 208, 209, 210, 214, 215, 219, 225, 229, 234, 236, 242, 245, 246, 247, 252, Appendix I, Appendix N, and Appendix T

[Defense Acquisition Circular (DAC) 86-6]

Department of Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-6 amends the DoD FAR Supplement (DFARS) with respect to administrative changes to reflect organizational changes for the Department of the Army; very high speed integrated circuits (VHSIC) safeguards; contractor identification (DD Form 350); coding of awards; DoD Parts Control Program for the Standardized Military Drawing Program; Federal Supply Schedules; qualification requirements (approval level); domestic source restriction; field pricing reports; Industrial Modernization Incentives Program (IMIP) productivity savings rewards; availability of contractors records; public interest determinations, waiver of Buy American Act for Defense Cooperation and FMS/Offset Countries; approval level for nonavailability exceptions to the DoD Appropriations Act Restrictions for articles of food and clothing; expiration of US-Switzerland Offset MOU; Federal Excise Taxes; contractor performance reports; novation and change-of-name agreements; value engineering program requirement; contract drawings, maps, and specifications; fixed price options; Appendix I, DD Form 250; Virginia Contracting Activity; deletions from the DFARS; editorial corrections; and provides information regarding International Agreements.

EFFECTIVE DATE: September 1, 1987.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986

edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-5.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Public Comments

DAC 86-6, Items I and XXVI

Public comments were not solicited with respect to these items because they provide informational material.

DAC 86-6, Item, II, Items IV through IX, and Items XIII through XXV

Public comments were not solicited with respect to these revisions since such revisions (a) do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or (b) do not have a significant effect beyond agency internal operating procedures; or compelling reasons required issuance of an interim rule without prior publication for public comment.

DAC 86-6, Item III

An interim rule was published in the *Federal Register* on February 11, 1987 (52 FR 4318), and public comments were solicited.

DAC 86-6, Item X

A proposed rule was published in the *Federal Register* on January 9, 1987 (52 FR 809). All commenters either concurred with the proposed rule or offered no comments.

DAC 86-6, Item XI

A proposed rule was published in the *Federal Register* on May 28, 1986 (51 FR 19236) and public comments were solicited. As a result of these public comments, the proposed rule was modified and these changes are reflected in a final rule which was published in the *Federal Register* on July 14, 1987 (52 FR 26345).

DAC 86-6, Item XII

An interim rule was published in the *Federal Register* on April 8, 1987 (52 FR 11276). It was determined under authority of the Secretary of Defense to issue the coverage as an interim regulation to implement section 943 of the Defense Improvement Act of 1986 (Pub. L. 99-500). Comments were invited.

C. Regulatory Flexibility Act

DAC 86-6, Item I

This item provides informational material; therefore the Regulatory Flexibility Act does not apply.

DAC 86-6, Item II, Items IV through X, and Items XIII through XXV

These revisions are not "significant revisions" as defined in FAR 1.501-1; i.e., they do not alter the substantive meaning of any coverage in the DFARS having a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations, solicitation of agency and public views on these revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

DAC 86-6, Item III

The Department of Defense certifies that this rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq. A regulatory flexibility analysis has therefore not been performed. An interim rule was published in the *Federal Register* on February 11, 1987 (52 FR 4318), and public comments were solicited.

DAC 86-6, Item XI

The Department of Defense certifies that this rule will not have a significant impact on a substantial number of small entities. There will be a requirement for a "report" in that those businesses desiring to participate in IMIP will be required to submit IMIP agreement proposals. However, the data submitted in the proposals will be generated from cost data already contained in the contractor's recordkeeping systems. No comments from small entities were received regarding the Initial Regulatory Flexibility Analysis prepared in conjunction with the proposed rule.

DAC 86-6, Item XII

An interim rule was published in the *Federal Register* on April 8, 1987 (52 FR 11276); comments were invited.

DAC 86-6, Item XXVI

This item provides instructions for administrative corrections to DAC No. 86-5; therefore the Regulatory Flexibility Act does not apply.

D. Paperwork Reduction Act

DAC 86-6, Items I and XXVI

These items provide information material; the Paperwork Reduction Act does not apply.

DAC 86-6, Items II, IV through X, and Items XII through XXV

The paperwork Reduction Act does not apply because these final rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

DAC 86-6, Item III

This rule contains information collection requirements which were approved by OMB for an increase of 10,000 hours under Account 0704-0225.

DAC 86-6, Item XI

This rule contains information collection requirements which were approved by OMB on March 2, 1987, for an increase of 22,400 hours under Account 0704-0232.

List of Subjects in 48 CFR Parts 202, 204, 205, 207, 208, 209, 210, 214, 215, 219, 225, 229, 234, 236, 242, 245, 246, 247, 252, Appendix I, Appendix N, and Appendix T

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition, Regulatory Council.

[Defense Acquisition Circular No. 86-6]

September 1, 1987.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective September 1, 1987.

Defense Acquisition Circular (DAC) 86-6 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item—I—Appendix T, International Agreements

Appendices to the DAR were not included in the 1984 edition of the DFARS. The Table of Contents reflected those appendices which were still in effect at the time of transition from the DAR to the FAR and the DFARS. The DAR Council Determined to incorporate in the 1986 edition of the DFARS DAR Appendices which remained in effect. The DAR Appendices were incorporated without change, except Appendix T which included updates and annexes to certain International Agreements not previously available for publication. The following reflects the updates and annexes:

Australia; Memorandum of Discussion, Details of Agreement, plus Annexes A-C

United Kingdom; Memorandum of Understanding (MOU) updated, plus Annexes I-V

Netherlands; Annex IV (plus Appendix 1), Annexes V and VI to MOU
Germany; Annex to MOU
Italy; Annexes I-III to MOU
Belgium; Annexes I-III to MOU (plus Appendix I to Annex III)
Denmark; Annex (Quality Assurance) to MOU

France; Annexes II and III to MOU
Israel; Memorandum of Agreement updated (Annexes A and B deleted)
Egypt; Amendment to MOU

Item II—Administrative Changes to DFARS Parts 202 and 225

DFARS 202.1 and 225.3 are revised to reflect organizational changes for the Department of the Army.

Item III—Very High Speed Integrated Circuits (VHSIC) Safeguards

A new Subpart 204.72 is added to provide policies and procedures regarding protection of technologies and products developed under the VHSIC Program, as required by DoD Instruction 5230.26, Very High Speed Integrated Circuits (VHSIC) Technology Security Program. A related clause is added at 252.204-7006 which incorporates enclosure (4) to DoDI 5230.26 and includes, in part, (a) the requirements that contractors allow representatives of the Defense Investigative Service (DIS) access to facilities at reasonable times for compliance reviews, and (b) the requirement that subcontractors must also comply with enclosure (4) to DoDI 5230.26 where subcontracts involve VHSIC. These changes became effective February 4, 1987 and will expire January 31, 1988 unless sooner rescinded or extended, which period will allow time for conversion of the VHSIC safeguards within enclosure (4) to DODI 5230.26 to an appropriate military specification, military standard, or manual. Pending conversion to such specification, standard, or manual, contracting officers are directed to provide a copy of enclosure (4) to DoDI 5230.26 to contractors/offers upon request. An interim rule was published in the *Federal Register* on February 11, 1987 (52 FR 4318).

Item IV—Contractor Identification (DD Form 350)

DFARS 204.6 is revised to provide uniform guidance concerning the completion of the DD Form 350, beginning October 1, 1987. Three data elements are being added to the contract reporting system without modification to the DD Form 350. The new data will be entered in Part E of the May 85 edition

of the form in accordance with the instructions at DFARS 204.671-5(f). New Item E2, Extent Competed, must be provided with each DD Form 350 submitted. Items E3, Standard Industrial Classification (SIC) Code, and E4, Commercial and Government Entity (CAGE) Code, may be left blank in the first quarter of FY 88 if the information is not available within three working days after the date on which the dollars were actually obligated or deobligated by the contracting office. A related clause is added at 252.204-7007. These changes were published as a final rule in the *Federal Register* on September 29, 1987 (52 FR 36420).

Item V—Coding of Awards

DFARS 204.671-5(d)(ii)(F) is revised to provide the following guidance in the preparation of DD Form 350.

Awards to nonprofit organizations, including educational institutions, will no longer be coded in Block C5 of the DD Form 350 as Not Applicable (Code 7) unless such an award is expressly authorized or required by statute. Future awards to such entities, unless expressly authorized or required by statute, will be coded in accordance with the actual extent of competition applicable to the award.

Awards will also be coded as Not Applicable (Code 7) when a source is directed pursuant to an International Agreement or Treaty.

The effect of these two changes is that the dollar value of awards to nonprofit organizations will now be included in the competition base, unless the award is expressly authorized or required by statute. Awards to a source directed pursuant to an International Agreement or Treaty will be excluded from the competition base.

Item VI—DoD Parts Control Program and the Standardized Military Drawing Program

DFARS 207.105(b)(13)(iv) and 234.005-70 are revised to include reference to DoDI 4120.19, DoD Parts Control Program.

Item VII—Federal Supply Schedules

Pursuant to an agreement between DoD and GSA, DoD will no longer be a mandatory user on Federal Supply Schedules. This policy becomes effective for each Federal Supply Group (FSG) as that schedule expires. The sole exception will be Federal Supply Group 68, chemicals and gases, and services for maintenance, repair, rehabilitation and reclamation of personal property. DFARS 208.404-70 is revised to annotate each FSG with its expiration date and to

delete those FSGs which were not agreed to by DoD for mandatory use. These changes were published as a final rule in the *Federal Register* on September 3, 1987 (52 FR 33411), with a correction on September 15, 1987 (52 FR 34866).

Item VIII—Qualification Requirements (Approval Level)

DFARS 209.202(a)(1) is revised to clarify approval level with respect to qualification requirements in specifications for products which are to be included on a Qualified Products List.

Item IX—Domestic Source Restriction

DFARS 214.201-6 and 215.407 are revised to add coverage to require contracting officers to notify bidders and offerors when a solicitation or request for proposals is limited to domestic sources in accordance with FAR 6.302-3, Industrial Mobilization; or engineering, development, or research capability. The notification will be accomplished by the insertion of a new provision, 252.214-7001, Domestic Source Restriction, in all solicitations, and by the use of a new numbered note in the Commerce Business Daily (CBD) whenever the provision is used. It is anticipated that the use of the solicitation provision and the new CBD Note will eliminate the confusion among foreign bidders and offerors who presently are not notified of the restriction until after they have submitted a bid or offer. Corresponding changes are also made to 205.207 to identify the numbered note and require its use in solicitations.

Item X—Field Pricing Reports

DFARS 215.805-(c)(1)(S-72) is added to require the contracting officer to include production scheduling information in the request for field pricing reports and to require the contractor to include this data in the proposal when the Government acquires spare part under the Spares Acquisition Integrated with Production (SAIP) Program. This data will allow the Government to realize economic benefits by combining spare parts quantities with production quantities. The DAR Council issued a proposed rule on January 9, 1987 (52 FR 809). All commenters either concurred with the proposed rule or offered no comments.

Item XI—Industrial Modernization Incentive Program (IMIP) Productivity Savings Rewards

DFARS 215.872 is revised to delete the existing coverage on Capital Investment Incentives in its entirety and to insert coverage on the Industrial

Modernization Incentives Program (IMIP). This program when implemented will benefit both the contractor and DoD in the form of increased manufacturing efficiencies based upon the terms and conditions established in a mutually agreed upon IMIP business agreement. A related clause is added at 252.215-7001. A proposed rule was published in the *Federal Register* on May 28, 1986 (51 FR 19236) and public comments were solicited. As a result of these public comments, the proposed rule was modified and these changes were reflected in a final rule which was published in the *Federal Register* on July 14, 1987 (52 FR 26345).

Item XII—Availability of Contractor Records

DFARS 215.875 is added to implement section 943 of Title IX of Pub. L. 99-500, the FY 1987 DoD Appropriations Act, et seq. This coverage is effective on all solicitations issued on or after April 16, 1987. An interim rule was published on April 8, 1987 (52 FR 11276), with a correction on April 23, 1987 (52 FR 13447).

Item XIII—Public Interest Determinations, Waiver of Buy American Act for Defense Cooperation and FMS/Offset Countries

DFARS 225.102(S-70)(2) is revised to allow for approval of determinations to waive the Buy American Act as consistent with the public interest, at levels lower than the Secretary concerned, where the beneficiary of such actions is offering the end product of a Defense Cooperation Country (DFARS 225.70) or an FMS/offset country (DFARS 225.7310).

Item XIV—Approval Level for Nonavailability Exceptions to the DoD Appropriations Act Restrictions for Articles of Food and Clothing

DFARS 225.7002(a)(7) is revised to allow for an exception to the DoD Appropriations Act Restrictions for the acquisition of articles of food and clothing supported by determinations of domestic nonavailability by the Secretary concerned or his authorized designee (formerly restricted to the Secretary concerned).

Item XV—Expiration of US-Switzerland Offset MOU

The US-Switzerland Offset Memorandum of Understanding (MOU) expired July 31, 1987. DFARS 225.7310(a) is revised to delete reference to Switzerland, and copy of the MOU is removed from Appendix T. Appropriate coverage will be reinstated when a new Swiss MOU is negotiated.

Item XVI—Federal Excise Taxes, Subpart 229.2 (Deletion of)

DFARS 229.202(b) and 229.202(d) contain duplication of Internal Revenue Service Regulations. DFARS 229.202(S-70) will be added to the FAR as a new 9.203. Therefore, DFARS Subpart 229.2 is deleted.

Item XVII—Contractor Performance Reports

The U.S. Army Corp of Engineers, the proponent organization for maintaining the central repository of SF 1420's for the Department of Defense, has converted its manual system to computerized data base. It contains a six-year history of those performance evaluations which previously resided in a manual file system. The system is designed to support any DoD contracting activity by making available the information contained in the data base through modern telecommunication facilities including personal computer software for direct entry and retrieval of evaluations on specific contractors. Hence, the revision at 236.201 is necessary to promote the system's use and ensure data integrity.

Item XVIII—Novation and Change-Of-Name Agreements

DFARS 242.1203(b)(1) is revised to remove the Defense Logistics Agency from the list of addressees for transmittal of notice of agreements. Editorial changes are made to the addresses for the Departments of the Army, Navy, and Air Force.

Item XIX—Value Engineering Program Requirement

On March 26, 1986, the Deputy Secretary of Defense directed that:

(a) The value engineering program requirement clause be included in initial production contracts (first and second production buys) for major system acquisition programs (DoD Directive 5000.1), except in certain circumstances.

(b) A value engineering program requirement clause be considered for inclusion in the initial production contracts for less than major system acquisition programs.

DFARS Subpart 248.201 is revised to place more emphasis on value engineering and its potential. This change was published as a final rule in the *Federal Register* on June 25, 1987 (52 FR 23835).

Item XX—Contract Drawings, Maps and Specifications

The solicitation provision at DFARS 252.236-7002 has been revised to allow the contracting officer, at his option, to

provide either sets of large scale contract drawings and specifications or one set of reproducible (sepia). This change allows the Government to provide sets of contract drawings and specifications in lieu of sets of sepia when the former is less expensive.

Item XXI—Fixed Price Options

The clauses at 252.270-7002 and 252.270-7003 are revised to allow contracts which include the "Fixed Price Options" provisions to be written for a 12-month period which crosses fiscal years rather than on a Government fiscal year basis only.

Item XXII—Appendix I, DD Form 250

DAC 86-1, Item XLI, provided changes to Instructions in Appendix I for Block 19, DD Form 250, with respect to unit price (actual or estimated). Appendix I is revised to reinstate the coverage which was in effect prior to DAC 86-1.

Item XXIII—Virginia Contracting Activity

Appendix N is revised to add Virginia Contracting Activity.

Item XXIV—Deletions from the DFARS (Duplication of FAR)

The following paragraphs are deleted from the DFARS because the coverage is a duplication of the FAR: 205.207(d)(2); 205.207(d)(S-70); 205.207(d)(S-71); 208.404-1(a) (last sentence); 214.202-5(b); 214.208(a); 215.407(S-70); 215.410; 215.411; 215.411-70; and 252.214-7000 (text deleted; paragraph marked "Reserved").

Item XXV—Editorial Corrections

Editorial corrections are made as follows:

Paragraph and reason for correction

- 210.008 and 210.011—To reflect correct designation of DoD Acquisition Management Systems and Data Requirements Control List.
- 219.501(c)—To add "FAR" to the referenced paragraph 213.105.
- 245.302-72—To reflect correct designation of DARIC and to change the referenced manual to DoD 7950.1-M.
- 246.705(a)—To change title of clause 252.246-7001 to read "Warranty of Data".
- 247.105(b)(5)(i)—To reflect correct address for the Deputy Chief of Staff for Logistics, Department of the Army.
- 252.210-7001 and 252.210-7002—To reflect correct designation of DoD Acquisition Management Systems and Data Requirements Control List.

252.270-7006 (paragraph (b) of the clause)—To change "\$10" to read "10", at the end of page.

Appendix I, I-301, Block 2 (paragraph (b))—To change referenced block to read "Block 16(d)(6)" instead of "Block 16(c)(6)".

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 202, 204, 205, 207, 208, 209, 210, 214, 215, 219, 225, 229, 234, 236, 242, 245, 246, 247, 252, Appendix I, Appendix N, and Appendix T continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 202—DEFINITIONS OF WORDS AND TERMS

202.101 [Amended]

2. Section 202.101 is amended by adding in paragraph (a) at the beginning of the listing "FOR THE ARMY" the designation "Directorate for Contracting, Office of the Assistant Secretary of the Army (Research, Development and Acquisition)," by removing the word "and" at the end of the penultimate designation in the listing "FOR THE ARMY" in paragraph (a); by adding the word "and" at the end of the existing last designation in the listing "FOR THE ARMY" in paragraph (a); and by adding in paragraph (a) at the end of the listing "FOR THE ARMY" the designation "U.S. Army, South."

PART 204—ADMINISTRATIVE MATTERS

204.202 [Amended]

3. The interim rule published at 52 FR 4318 (February 11, 1987) is adopted as final with the following changes: Section 204.202 is amended by redesignating the existing paragraph (c)(6) as paragraph (c)(7) and adding and reserving new paragraph (c)(6).

204.471 [Adopted as final]

4. The interim rule published at 52 FR 4318 (February 11, 1987) is adopted as final without change.

Subpart 204.72—[Adopted as final]

5. The interim rule published at 52 FR 4318 (February 11, 1987) is adopted as final without change.

6. Section 205.207 is amended by removing paragraphs (d)(2), (d)(S-70), and (d)(S-71); and by adding paragraph (e)(S-70) to read as follows:

PART 205—[Amended]

205.207 Preparation and transmittal of synopses.

(e)(S-70) If the synopsis is for a proposed contract action intended to be restricted to domestic source(s) under the authority of FAR 6.302-3, the synopsis shall include reference to Numbered Note 6.

PART 207—[Amended]

207.105 [Amended]

7. Section 207.105 is amended by adding at the end of paragraph (b)(12)(iv) after the word "standardization" and before the period, the words "and DoDI 4120.19 for procedures relative to the DoD Parts Control Program".

PART 208—[Amended]

208.404-1 [Amended]

8. Section 208.404-1 is amended by removing the last sentence of paragraph (a).

PART 209—[AMENDED]

209.202 [Amended]

9. Section 209.202 is amended by adding in paragraph (a)(1) between the word "authority" and the word "listed" the words "or a designee".

PART 210—[AMENDED]

210.008 [Amended]

10. Section 210.008 is amended by substituting at the end of paragraph (g)(1) the words "DoD 5010.12-L" in lieu of the words "(AMSDL) DODD 5000.19-L, Volume II".

210.011 [Amended]

11. Section 210.011 is amended by substituting in the first and second sentences of paragraph (S-71) the designation "5010.12-L" in lieu of the words "Directive 5000.19-L, Volume II".

PART 214—[AMENDED]

12. Section 214.201-6 is added to read as follows:

214.201-6 Solicitation Provisions.

(S-70) The contracting officer shall insert the provision at 252.214-7001, Domestic Source Restriction, in all solicitations that are restricted to domestic sources under the authority of FAR 6.302-3.

214.202-5 [Amended]

13. Section 214.202-5 is amended by removing paragraph (b).

214.208 [Removed]

14. Section 214.208 is removed.

PART 215—[AMENDED]

15. Section 215.407 is amended by removing paragraph (S-70) and by adding paragraph (S-71) to read as follows:

215.407 Solicitation Provisions.

(S-71) In accordance with 214.201-6(S-70), insert the provision at 252.214-7001, Domestic Source Restriction, in solicitations.

215.410 [Removed]

16. Section 215.410 is removed.

215.411 and 215.411-70 [Removed]

17. Sections 215.411 and 215.411-70 are removed.

18. Section 215.805-5 is amended by adding paragraph (c)(1)(S-72) to read as follows:

215.805-5 Field Pricing Support.

(c)(1)(S-72) When field pricing reports are to be requested for spare parts proposals that have been identified as Spares Acquisition Integrated with Production (SAIP) items (see DoD Instruction 4245.12), the contracting officer shall—

(A) Include a copy of the data entitled "Contractor's Procurement Schedule for SAIP" (Data Item DI-V-7200), or equivalent, in the request so that the benefits of combining new and in-process quantities can be assured (this data is delivered by the contractor on contracts that include SAIP requirements); or

(B) Require the contractor to include this data in its proposal.

215.875 [Added]

19. The interim rule published at 52 FR 11276 (April 8, 1987) and 52 FR 13447 (April 23, 1987) is adopted as final without change.

PART 219—[AMENDED]**219.501 [Amended]**

20. Section 219.501 is amended by substituting in the second sentence of paragraph (c) the words "FAR 13.105 in lieu of the" reference "213.105"; and by changing in the last sentence of paragraph (c) the reference "FAR 13.105-1(d)(2)" to read "FAR 13.105".

PART 225—[AMENDED]

21. Section 225.102 is amended by adding a sentence at the end of paragraph (S-70)(2), to read as follows:

225.102 Policy.

(2) * * * However when evaluating the acceptability of an end product of a country having a Foreign Military Sales (FMS)/offset arrangement with the United States (DFARS 225.7310), or an end product of a country having a Defense Cooperation Agreement with the United States (DFARS 225.7500), the determination that the acquisition of a domestic end product would be inconsistent with the public interest is delegated at the levels set forth under 225.102(S-71).

22. Section 225.302 is amended by adding in paragraph (S-72)(2)(i) at the end of the designations for the Department of the Army the designation "Commander, U.S. Army, South;" and by revising in paragraph (S-72)(4)(i) the designations for the Department of the Army to read as follows:

225.302 Policy.

(4) * * *
(i) * * *

Department of the Army—Commander, U.S. Army Materiel Command; Commander, Corps of Engineers Command; Assistant Surgeon General for Research and Development; Commander, U.S. Army Strategic Defense Command.

225.7002 [Amended]

23. Section 225.7002 is amended by adding in paragraph (a)(7) between the word "concerned" and the word "has" the words "or a designee".

225.7310 [Amended]

24. Section 225.7310 is amended by removing in the fourth sentence of paragraph (a) the comma and the words "and Switzerland" and adding the word "and" between the word "Netherlands," and the word "Norway".

PART 229—[AMENDED]**Subpart 229.2—[Removed]**

25. Subpart 229.2 is removed.

PART 234—[AMENDED]**234.005-70 [Amended]**

26. Section 234.005-70 is amended by removing in the first sentence between the word "Acquisitions;" and the word "standardization" the word "and"; by changing the period to a semi-colon at the end of the first sentence and adding the words "and the DoD Parts Control Program in accordance with DoDI 4120.19, DoD Parts Control Program."; and by adding a sentence before the last

sentence to read: "In conjunction with the DoD Parts Control Program, nonstandard microcircuit devices (FSC 5962), which are approved for use in design, should be documented as standardized military drawings, in lieu of specification or source control drawings."

PART 236—[AMENDED]

27. Section 236.201 is amended by adding paragraphs (a)(1)(S-71) and (S-72) and by revising paragraph (c) to read as follows:

236.201 Evaluation of Contractor Performance.

(S-71) Place the contractor's DUNS number in Block 2 of SF 1420, if known.

(S-72) Place the telephone number of the Government office which will retain the official record copy of the report in Block 5 of SF 1420.

(c) *Distribution and Use of Performance Reports.* (1) The original of the performance evaluation report (typewritten or computer produced) for every contract will be retained by the activity preparing the report for a minimum of six years after the date of the report. A copy of performance evaluations in the following categories will be forwarded to the central data base after completing the review:

(i) Interim or final evaluations where one or more performance elements are rated unsatisfactory or outstanding;

(ii) Final evaluations where the overall rating is unsatisfactory or outstanding or when a contract is terminated for default; and

(iii) All other evaluations when the contract value is \$500,000 or more. The central data base, set forth below, will retain reports for six years. HQUSACE, DAEN-PR, is responsible for establishing procedures and practices which will assure appropriate distribution and utilization of performance evaluation data within the Departments.

(2) The centralized and automated data base containing performance evaluation information on DoD construction contractors is available to all construction activities of the Military Departments. The centralized data base is maintained at: U.S. Army Corps of Engineers; North Pacific Division, NPDCT; P.O. Box 2870; Portland, OR 97208; Telephone: FTS 423-3459; (503) 221-3459/4910.

Computer access to these files can be made available by contacting North Pacific Division to obtain user logon and procedure instructions.

(3) Performance evaluations of construction contractors shall be used in making responsibility determinations. Before selecting fully qualified responsible contractors for future awards or negotiation of construction contracts above \$1 million, the contracting officers should retrieve from the central data base all performance evaluations on file pertaining to prospective contractors. The central data base provides overall ratings, contract description, value, performance elements and a telephone number where transcripts of the remarks and documentation, usually appended to unsatisfactory or outstanding evaluations, may be obtained. Contracting activities with telecommunication capability can retrieve information from the central data base by remote terminal. The central data base may be used to obtain performance information for anticipated contracts regardless of contract amount or for other purposes.

PART 242—[AMENDED]

242.1203 [Amended]

28. Section 242.1203 is amended by changing in the listing following the text of paragraph (b)(1) in the ATTN line for the Department of the Army the designation "DRCCG" to read "AMCC-P" and adding to the zip code for the Department of the Army the digits "-0001"; by adding to the zip code for the Department of the Navy the digits "-5000"; by changing the address for the Department of the Air Force from "ATTN: PMP, Washington, DC 20331" to read "ATTN: PKCP, Andrews AFB, DC 20334-5000"; and by removing from the listing "the Defense Logistics Agency".

PART 245—[AMENDED]

29. Section 245-302-72 is revised to read as follows:

245.302-72 Providing ADPE as Government Property.

The proposed acquisition of automatic data processing equipment by a contractor shall be submitted through the Administrative Contracting Officer to Director, Defense Automation Resources Information Center (ATTN: DARIC-R), Cameron Station, Alexandria, VA 22304-6100, in accordance with Defense Automation Resources Management Manual, DoD 7950.1-M.

PART 246—[AMENDED]

246.705 [Amended]

30. Section 246.705 is amended by removing in paragraph (a) the word "Technical".

PART 247—[AMENDED]

247.105 [Amended]

31. Section 247.105 is amended by changing in paragraph (b)(5)(i) the Attention line for the Department of the Army from "LOG/MM-SSB" to read "DALO-TSP" and by changing the zip code for the Department of the Army from "20315" to read "20310-0570".

PART 252—[AMENDED]

252.204-7006 [Added]

32. The interim rule published at 52 FR 4319 (February 11, 1987) is adopted as final without change.

252.210-7001 [Amended]

33. Section 252.210-7001 is amended by changing in the title of the section, in the title of the clause, and in the text of the clause the words "Directive 5000.19-L, Volume II" to read "5010.12-L".

252.210-7002 [Amended]

34. Section 252.210-7002 is amended by changing in the title of the section and in the title of the clause the words "Directive 5000.19-L, Volume II" to read "5010.12-L".

252.214-7000 [Removed and Reserved]

35. Section 252.214-7000 is removed and the section marked "Reserved."

36. Section 252.214-7001 is added to read as follows:

252.214-7001 Domestic Source Restriction

As prescribed at 214.201-6(S-70), insert the following provision:

Domestic Source Restriction (Aug 1987)

This solicitation is restricted to domestic sources under the authority of FAR 6.302-3. Accordingly, foreign sources, except Canadian sources, are not eligible for award. (End of provision)

252.215-7002 [Added]

37. The interim rule published at 52 FR 11276 (April 8, 1987) and 52 FR 13447 (April 23, 1988) is adopted as final without change.

38. Section 252.236-7002 is amended by revising the date of the clause and by revising paragraph (a) of the clause, to read as follows:

252.236-7002 Contract Drawings, Maps and Specifications.

* * * * *

Contract Drawings, Maps, and Specifications (Sep 1987)

(a) — sets (5 unless otherwise specified) of large-scale (half-size optional) contract drawings and specifications will be furnished the Contractor without charge except applicable publications incorporated into the technical provisions by reference. Additional sets will be furnished on request at the cost of reproduction. One set of reproductions will be furnished the Contractor on a one-time basis in lieu of the above contract drawings at the option of the Contracting Officer. The work shall conform to the specifications and the following contract drawings identified on the following index of drawings.

Title — File — and — Drawing No. —

* * * * *

252.270-7003 [Amended]

39. Section 252.270-7003 is amended by changing the date of the clause to read "SEP 1987" in lieu of "APR 1984"; by adding in the second sentence of paragraph (b) of the clause between the word "years" and the word "throughout" a comma and the words "or other authorized twelve-month periods"; and by changing the period at the end of the first sentence of paragraph (d) of the clause to a comma and adding the words "unless otherwise authorized by law."

252.270-7004 [Amended]

40. Section 252.270-7004 is amended by changing the date of the clause to read "SEP 1987" in lieu of "APR 1984"; by adding in the text of the clause between the word "later" and the word "provided," the words "or, if the contract is written for a twelve-month period other than the fiscal year, by the expiration date of the contract"; by changing the four asterisks between the word "least" and the word "days" to one asterisk; and by changing the designation of the footnote to the clause from four asterisks to one asterisk and placing the footnotes in numerical sequence.

Appendix I to Chapter 2—[Amended]

41. Appendix I-301 is amended by revising the Instruction entitled "Block 19" to read as follows:

I-301 Preparation Instructions.

* * * * *

Block 19—UNIT PRICE. The contractor may, at his option, enter unit prices on all MIRR copies, except as a minimum:

(a) On Navy procurements, the two copies of the MIRR addressed to the consignee via mail shall be priced using actual prices. If actual price is not available, leave blank. Contractors shall make every effort to ensure that actual prices are entered on the MIRR. However shipments shall not be delayed

solely because required prices are not available.

(b) When the MIRR is used as an invoice, see I-306.

Appendix N to Chapter 2—[Amended]

42. Appendix N is amended by adding at the end of Appendix N following the listing "MDA907" the listing to read as follows:

MDA 908 Virginia Contracting Activity; P.O. Box 46353; Washington, DC 20050-8563.

Appendix T to Chapter 2—[Amended]

43. Appendix T is amended by removing from the Table of Contents "T-102, Swiss Agreements; T-102-1, Swiss F-5 Agreement; and T-102.2, Amendment 1 to Swiss F-5 Agreement"; and by removing the Memorandum of Understanding between the Government of the Swiss Confederation and the Government of the United States Concerning the F-5 Program; and by removing Amendment 1 to Swiss F-5 Agreement.

[FR Doc. 88-22064 Filed 9-28-88; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Parts 201, 202, 204, 205, 208, 209, 213, 214, 215, 224, 225, 228, 231, 233, 235, 245, 247, 252, and 253

[Defense Acquisition Circular (DAC) 86-7]

Department of Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-7 amends the DoD FAR Supplement (DFARS) with respect to self-governance (DoD Hotline); restrictions on the purchase of petroleum products originating in Angola; North Atlantic Treaty Organization (NATO) Cooperative Projects; disputes and appeals; R&D contracting—cost sharing policy; DoD property in the custody of contractors; Government property—plant clearance procedures; preparation of personal property for shipment or storage; cancellation of DD Form 558-1, Bidder's Mailing List Application Supplement, and DD Form 1660, Management Systems Summary List; deletions from the DFARS; and provides information regarding cancellation of DAR Supplement No. 2.

EFFECTIVE DATE: November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition

Regulatory Council, ODASD(P)/DARS, OASD (P&L), c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1987 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-5.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Public Comments

DAC 86-7, Items I, II, III, V, and VII through XIII

Public comments were not solicited with respect to these revisions since such revisions (a) do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or (b) do not have a significant effect beyond agency internal operating procedures; or compelling reasons required issuance of an interim rule without prior publication for public comment.

DAC 86-7, Item IV

A proposed rule with request for comments was published in the *Federal Register* on October 20, 1986 (51 FR 37205).

DAC 86-7, Item VI

A proposed rule with request for comments was published in the *Federal Register* on November 13, 1985 (51 FR 46796).

C. Regulatory Flexibility Act

DAC 86-7, Items I, III through VI and Items VIII through XIII

These revisions are not "significant revisions" as defined in FAR 1.501-1; i.e., they do not alter the substantive meaning of any coverage in the DFARS having a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations, solicitation of agency and public views on these revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

DAC 86-7, Item II

The Department of Defense certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. Although the rule contains a requirement to display DoD Hotline posters, this requirement only applies to contractors who receive an award amounting to \$5 million or more and who do not meet the criteria for exception contained in the rule. Approximately 454 contracts exceeding \$5 million were awarded to small businesses in 1986. Small businesses receiving such awards and not meeting the exception criteria will be required on a one-time basis to obtain free copies of the DoD Hotline poster from the DoD Inspector General's office in Washington, DC and to display such posters.

DAC 86-7, Item VII

The final rule will apply to approximately 1,500 small businesses using Government property under DoD contracts. The impact on small businesses should be minimal since most are in compliance with the final rule. The proposed requirement to report additions and deletions of specific categories of property from the contract will require some small businesses to revise their Government property control system, but the businesses affected and changes required should be small in number. A Final Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy for the Small Business Administration.

D. Paperwork Reduction Act

DAC 86-7, Items I through VI and Items VIII through XIII

The Paperwork Reduction Act does not apply because these final rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

DAC 86-7, Item VII

On October 21, 1986, the Office of Management and Budget approved a paperwork burden increase of 38,000 hours to OMB Number 0704-0246 as a result of a deviation (DAR Case 86-931) to allow use of this coverage. This rule does not change the reporting requirements approved on October 21, 1986. Another Paperwork Reduction Act analysis, therefore, is not required.

List of Subjects in 48 CFR Parts 201, 202, 204, 205, 208, 209, 213, 214, 215, 224, 225, 228, 231, 233, 235, 245, 247, 252, and 253

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[Defense Acquisition Circular (No. 86-7)]

November 2, 1987.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective November 2, 1987.

Defense Acquisition Circular (DAC) 86-7 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribed procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Cancellation of DAR Supplement No. 2

During preparation of the FAR and DFARS, the material contained in ASPR (DAR) Supplement No. 2, Contract File Maintenance, Closeout, and Disposition, was incorporated in Subpart 4.8 of both the FAR and the DFARS. Therefore, DAR Supplement No. 2 is cancelled, and the Table of Contents is revised accordingly.

Item II—Self-Governance (DoD Hotline)

A new Subpart 203.70 is added to implement certain recommendations made by the President's Commission on Defense Management concerning contractor self-governance programs and debarment and suspension. The new coverage adopts a policy which promotes rather than mandates the establishment of contractor programs to improve compliance with law, regulations, and contract commitments, and provides criteria for responsibility determinations in suspension and debarment decisions. A related change is made to DFARS 209.406. The coverage also includes a clause that, when inserted in contracts, will require contractors to display DoD Hotline posters unless the contractor has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports. These changes were published as a final rule in the *Federal Register* on September 11, 1987 (52 FR 34386).

Item III—Restrictions on the Purchase of Petroleum Products Originating in Angola

DFARS 225.7 is revised to implement section 316 of the FY 1987 DoD

Authorization Act, Pub. L. 99-661. This coverage provides guidance with respect to restrictions on the purchase of petroleum products originating in Angola. This coverage applies to all solicitations issued and all contracts awarded on or after April 16, 1987. A related clause is added to 252.225-7022.

Item IV—North Atlantic Treaty Organization (NATO) Cooperative Projects

A new Subpart 225.79 is added to implement section 115 of the International Security and Development Cooperation Act of 1985 (Pub. L. 99-83) and section 1102 of the DoD Authorization Act of 1986 (Pub. L. 99-145). This coverage provides guidance to DoD contracting components in support of cooperative projects. Related changes are made in 201.103 and 245.603. A proposed rule was published in the *Federal Register* on October 20, 1986 (51 FR 37205). After review of comments received, the DAR Council concluded that the language contained in the proposed rule was consistent with the above-cited Public Law, and did not adopt the recommended changes.

Item V—Disputes and Appeals

DFARS Subpart 233.2 is revised to add spacecraft and launch vehicles to the list of acquisitions that must use the clause at FAR 52.233-1, Disputes, with its Alternate I, in recognition that these acquisitions are vital to the national defense and, thus, a contractor's refusal to continue performance, based upon a contract dispute with the Government, could cause serious financial damage and jeopardize national security. The clause prescriptive language previously located at 233.213 has been relocated to 233.214.

Item VI—R&D Contracting—Cost Sharing Policy

DRARS 235.003 is revised to delete obsolete reference to Federal Management Circular, FMC 73-3, and further to recognize the fact that cost sharing with educational institutions and nonprofit organizations is not normally appropriate in view of their nonprofit status and limited ability to recover cost participation from non-government sources. These changes were published as a final rule in the *Federal Register* on July 1, 1987 (52 FR 24473), and a correction was published on July 28, 1987 (52 FR 28148).

Item VII—DoD Property in the Custody of Contractors

DFARS 245.5 is revised to expand the reporting requirement for DoD property in the custody of contractors. Under this

reporting system, contractors will be requested to report information in a different format. DD Form 1662 will be used to collect the information required. DD Form 1662 is revised to change the title to "DoD Property in the Custody of Contractors". A copy of the revised form is provided with this DAC. Related changes are made to DFARS (DAR) Supplement No. 3. A proposed rule was published in the *Federal Register* on July 8, 1987 (52 FR 25614). After reviewing the comments, the DAR Council amended the proposed rule by changing the report due date to the Government from October 20 to October 31 of each year. A final rule was published in the *Federal Register* on October 22, 1987 (52 FR 39535).

[Editorial note. DD Forms are not published in the Code of Federal Regulations.]

Item VIII—Government Property—Plant Clearance Procedures

DFARS 245.606-5(e), Instructions for Completing Specific Forms, has been expanded regarding completion of Standard Form 1432, Inventory Schedule D, to include data on termination inventory. DFARS 245.607-70 has been revised to specify that a plant clearance case must be established after a pre-inventory scrap determination is made. DFARS 245.608-2 has been added to include guidance regarding screening of the procuring and requiring departments. Guidance has been included in 245.608-5(d) and 245.608-70(d) to clarify screening with the Defense Automation Resources Information Center and the Contractor Inventory Redistribution System. Regarding sales of surplus contractor inventory, 245.610-1 is revised to clarify that purchase or retention of contractor-acquired property is not subject to the approval of the plant clearance officer. DFARS 245.7101-10 is added to address use of DD Form 1637. DFARS 245.7102-4 is revised to correct present coverage. Additional coverage at 245.7102-7 has been added regarding preparation of this form. DD Form 1641 has been revised for clarity.

Item IX—Preparation of Personal Property for Shipment or Storage

At the direction of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), a joint service committee drafted a model performance work statement (PWS) for the acquisition of personal property packing and containerization services. This model PWS has been tested at several DoD military installations since 1983. The PWS has been established as the single format for the procurement of

the above-mentioned services. DFARS 247.271 has been revised and corresponding clauses in 252.247 have been deleted from the DFARS to accommodate the PWS. The deleted material will be incorporated in the PWS by an amendment to the DoD Personal Property Traffic Management Regulation (DoD 4500.34-R).

Item X—Cancellation of DD Form 558-1, Bidder's Mailing List Application Supplement

The DAR Council has determined that DD Form 558-1 is no longer needed. Use of the form is discontinued and the form is deleted from the DFARS.

Item XI—Cancellation of DD Form 1660, Management Systems Summary List

The DAR Council has determined that DD Form 1660 is no longer useful. The original purpose of the form is now accomplished by the Technical Data Requirements Review Board in accordance with DoD Directive 5010.12. Therefore, DD Form 1660 is deleted from the DFARS.

Item XII—Deletions from the DFARS (Duplication of the FAR)

The following paragraphs are deleted from the DFARS (unless noted otherwise), because the coverage is a duplication of coverage contained in the FAR. Minor changes are made as noted.

Subpart 204.7; 204.801(c)(3); 204.803(a)(8); 205.102(a)(1), 205.501 (a), (b), and (c); 205.504(b); 208.002(f) (revised); 208.002 (unlettered paragraph following paragraph (g)(2) deleted); 208.404-1(a) (last sentence); 209.404(c)(4); 213.503 (paragraphs re-lettered); 214.406-3(g)(3)(iv); 215.603(d); 215.707(a)(2); 224.102(a)(1); 228.001 (definitions for "fidelity bond", "forgery bond or policy", and "purchased insurance" deleted); 228.305(e)(1); 228.305(e)(2) (first two sentences deleted); 228.311(S-70); Subpart 228.70 (deleted and marked "Reserved"); 213.105(d)(2)(i)(A); 235.001 (definitions for "educational or other nonprofit organizations" and "unsolicited proposals" deleted); 235.005(d)(6); 235.006(a); 235.007(b) (first three sentences deleted); 235.007(c); 235.007(g) (revised); 235.007(i); 235.008 (all of 235.008); 235.010(b) first sentence deleted; second sentence revised); 245.306-2(S-70); 245.403(a); 245.403(b) (re-lettered as (S-70)); 245.613; and 252.228-7005.

Item XIII—Editorial Corrections

Editorial corrections are made as follows:

a. The Table of Contents is revised to reflect addition of Volume II of the

Armed Services Pricing Manual. (Note: The Pricing Manual consists of two volumes; 1986 is unnumbered and 1987 is numbered Volume II.)

b. DFARS 202.101(a) is revised to add the Strategic Defense Initiative Organization as a contracting activity.

c. DFARS 213.104(a) is relocated to 213.107(c) to align the coverage with the FAR.

d. The title to DFARS 215.608 is changed to read "Proposal Evaluation.", to conform to the FAR.

e. DFARS 235.071(c) is revised to add the word "in".

f. DFARS 245.610-1(a)(3)(i) is revised to delete reference to a nonexistent DFARS citation.

g. DFARS 245.7101-3 is revised to change the word "may" to read "shall".

h. DFARS 252.203-7001 is revised to correct a typographical error in paragraph (b) of the clause.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 201, 202, 204, 205, 208, 209, 213, 214, 215, 224, 225, 228, 231, 233, 235, 245, 247, 252, and 253 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. The Table of Contents is amended by adding to the listing of Manuals following the listing "Armed Services Pricing Manual (ASPM) (1986)", "Armed Services Pricing Manual, Volume 2, Price Analysis (1987)"; and by removing from the listing of Supplements the listing for Supplement No. 2.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

3. Section 201.103 is amended by adding in the second sentence of paragraph (a) between the word "contracts" and the word "made" the words "by DoD contracting activities"; and by adding in the second sentence of paragraph (a) between the word "sales" and the word "without" the words "or NATO cooperative projects".

PART 202—DEFINITIONS OF WORDS AND TERMS

4. Section 202.101 is amended by adding at the end of paragraph (a) the following: "FOR THE STRATEGIC DEFENSE INITIATIVE ORGANIZATION: Director, Strategic Defense Initiative Organization."

PART 204—ADMINISTRATIVE MATTERS

Subpart 204.7—[Removed]

5. Subpart 204.7 is removed.

204.801 [Amended]

6. Section 204.801 is amended by removing paragraph (c)(3).

204.803 [Amended]

7. Section 204.803 is amended by removing paragraph (a)(8).

PART 205—PUBLICIZING CONTRACT ACTIONS

205.102 [Amended]

8. Section 205.102 is amended by removing paragraph (a)(1); and by redesignating the existing paragraph (4)(i) as paragraph (a)(4)(i).

205.501 [Removed]

9. Section 205.501 is removed.

205.504 [Removed]

10. Section 205.504 is removed.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

11. Section 208.002 is amended by revising paragraph (f) and by removing the last three sentences of paragraph (g)(2), to read as follows:

208.002 Use of Other Government Supply Sources.

(f) Examples of strategic and critical materials which are in excess of national stockpile requirements are metals, ores, chemicals and similar raw material items. They are listed and described in a GSA Bulletin which is disseminated to contracting activities through Departmental channels. Detailed information on these excess materials is available from the Property Management and Disposal Service, General Services Administration, Washington, DC 20405.

* * * * *

PART 209—CONTRACTOR QUALIFICATIONS

209.404 [Removed]

12. Section 209.404 is removed.

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

213.104 [Amended]

13. Section 213.104 is amended by removing paragraph (a).

14. Section 213.107 is added to read as follows:

213.107 Solicitations and Evaluation of Quotations.

(c) Installation or activity transportation facilities may be used for delivery from local suppliers to the contracting installation only after consideration of the following methods:

- (1) Supplier delivery;
- (2) Common carrier;
- (3) Parcel post;
- (4) Other mail classes.

213.503 [Amended]

15. Section 213.503 is amended by redesignating paragraph (b) as paragraph (b)(1); by redesignating the existing paragraph (b)(1) as paragraph (d)(1); and by redesignating the existing paragraph (b)(3) as paragraph (S-70).

PART 214—SEALED BIDDING**214.406-3 [Amended]**

16. Section 214.406-3 is amended by removing paragraph (g)(3)(iv).

214.407 [Removed]

17. Sections 214.407, 214.407-1, 214.407-3, and 214.407-6 are removed.

PART 215—CONTRACTING BY NEGOTIATION**215.603 [Removed]**

18. Section 215.603 is removed.

215.608 [Amended]

19. Section 215.608 is amended by changing in the title the word "Proposed" to read "Proposal".

215.707 [Removed]

20. Section 215.707 is removed.

PART 224—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION**224.102 [Amended]**

21. Section 224.102 is amended by removing paragraphs (a)(1), (a)(1)(i) and (a)(1)(ii); and by redesignating the existing paragraph (2) as paragraph (a)(2).

PART 225—FOREIGN ACQUISITION

22. Section 225-702 is added to read as follows:

225.702 Restrictions.

(S-70) Purchase of petroleum products originating in Angola from companies engaged in production of petroleum products in Angola is prohibited. For purposes of this section "petroleum product" means natural or synthetic crude; blends of natural or synthetic crude; and products refined or derived from natural or synthetic crude or from such blends.

23. Section 225-703 is amended by adding paragraph (S-70) to read as follows:

225.703 Exceptions.

* * * * *

(S-70) *Waiver.* The Secretary of Defense or designee may waive the restriction contained in 225.702(S-70) if the Secretary or designee determines that such action is in the best interest of the Government. Designees for this waiver authority are as follows:

(1) For the Department of the Army—Assistant Secretary of the Army (Research, Development and Acquisition).

(2) For the Department of the Navy—Assistant Secretary of the Navy (S&L).

(3) For the Department of the Air Force—Director of Contracting and Manufacturing Policy, Office of the Assistant Secretary of the Air Force (Acquisition).

(4) For the Defense Agencies—Assistant Secretary of Defense (Production and Logistics).

24. Section 225.704 is added to read as follows:

225.704 Contract Clause.

(S-70) The Contracting Officer shall insert the clause at 252.225-7022, Certification and Agreement by Contractors Currently Producing Petroleum Products in Angola, in solicitations and contracts involving the supply of petroleum products.

25. Subpart 225.79, consisting of sections 225.7900 through 225.7906, is added to read as follows:

Subpart 225.79—North Atlantic Treaty Organization (NATO) Cooperative Projects

Sec.

225.7900	Scope of subpart.
225.7901	Definitions.
225.7902	General.
225.7903	Policy.
225.7904	Procedures.
225.7905	Disposal of Property.
225.7906	Reports.

Subpart 225.79—North Atlantic Treaty Organization (NATO) Cooperative Projects**225.7900 Scope of subpart.**

This subpart provides guidance on contractual implementation of NATO cooperative projects entered into under the authority of section 115 of the International Security and Development Cooperation Act of 1985 (Pub. L. 99-83) which amends the Arms Export Control Act, 22 U.S.C. 2751 et seq., and section 1102 of the Department of Defense Authorization Act (Pub. L. 99-145) which adds section 2407 to Title 10, U.S.C.

225.7901 Definitions.

"Cooperative project" means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to further the objectives of standardization, rationalization, and interoperability of the armed forces of North Atlantic Treaty Organization member countries and which provides for:

(a) One or more of the other participants to share with the United States the cost of research and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(b) Concurrent production in the United States and in another member country of a defense article jointly developed in accordance with paragraph (a) of this section; or

(c) Procurement by the United States of a defense article or defense service from another member country.

The term "other participant" means a participant in a cooperative project other than the United States.

225.7902 General.

(a) *Cooperative Project Authority.* (1) DoD Components which have been delegated authority to do so may enter into a cooperative project agreement with the North Atlantic Treaty Organization (NATO) or with one or more member countries of that organization in accordance with DoD Directive 5530.3, "International Agreements".

(2) In implementing cooperative project agreements, DoD Components may enter into contracts or incur other obligations on behalf of other participants without charge to any appropriation or contract authorization, in accordance with laws and regulations governing the negotiation of such cooperative project agreements.

(b) *Contracts Implementing Cooperative Projects.* Heads of DoD Components are delegated authority to contract in implementation of cooperative projects, subject to the approvals specified in 225.7904. When contracting in support of cooperative project agreements, certain statutory requirements which relate to the formation of contracts and to contractual terms and conditions may be waived on a case-by-case basis.

225.7903 Policy.

Except to the extent waived under this subpart, contracts implementing cooperative projects will comply with all applicable laws relating to procurement. In addition, all such contracts will be entered into and

administered in accordance with normal acquisition and contract administration procedures set forth in the FAR, this supplement and other applicable directives. Waivers of certain procurement laws and regulations, however, may be obtained when required by the terms of a written cooperative project agreement and when approved by the appropriate DoD officials based upon a determination that the waiver is necessary to ensure that the cooperative project will significantly further NATO standardization, rationalization, and interoperability.

225.7904 Procedures.

(a) *Directed Subcontracting.* In order to implement work sharing arrangements in cooperative project assignments, the Assistant Secretary of Defense for Production and Logistics (ASD(P&L)) may authorize the direct placement of subcontracts with particular subcontractors. Directed subcontracting is not authorized unless specifically addressed in the cooperative project agreement negotiated as described in 225.7902. In some instances it may not be feasible to name specific subcontractors at the time of conclusion of the agreement but the general provisions for work sharing at the prime and subcontractor level have to be clearly delineated in the agreement in order to provide the necessary authority to carry out such arrangement during the acquisition phase. The agreement itself will provide the necessary authority for inclusion of a contractual provision requiring the prime contractor to place certain subcontracts with particular subcontractors. No separate justification and approval during the acquisition process is required.

(b) *Statutory Waivers.* (1) In implementation of cooperative projects, the Deputy Secretary of Defense may waive with respect to contracts or subcontracts placed outside the United States any provision of law that specifically—

- (i) Prescribes procedures to be followed in the formation of contracts;
- (ii) Prescribes terms and conditions to be included in contracts;
- (iii) Prescribes requirements for or preferences to be given to goods grown, produced, or manufactured in the United States or in United States Government-owned facilities or for services to be performed in the United States; or
- (iv) Prescribes requirements regulating the performance of contracts.

(2) There is no authority for waivers of—

(i) Any provision of the Arms Export Control Act (22 U.S.C. 2751);

(ii) Any provision of 10 U.S.C. 2304;

(iii) The cargo preference laws of the United States, including the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)); or

(iv) Any of the financial management responsibilities administered by the Secretary of the Treasury.

(3) If any such waiver is contemplated under the terms of a cooperative project agreement, a request for the waiver will be forwarded to the Deputy Secretary of Defense through the ASD(P&L). The waiver request must be accompanied by a Determination and Findings for signature by the Deputy Secretary of Defense establishing that the waiver is necessary to further NATO standardization, rationalization, and interoperability significantly. The approval of the Deputy Secretary of Defense must be obtained prior to a commitment to make such waivers in an agreement of an amendment to such agreement or contract.

225.7905 Disposal of Property.

Property which is jointly acquired by the members of a cooperative project will be disposed in accordance with the procedures established in the agreement or in a manner consistent with the terms of the agreement. (See also 245.603-71.)

225.7906 Reports.

Congressional Notification of Designations of Particular Prime Contractors or Subcontractors for Cooperative Projects.

(a) Congressional notification is required whenever there is a DOD determination to award a prime or subcontract to a particular contractor if this determination was not part of the certification made under Section 27(f) of the Arms Export Control Act prior to finalization of a cooperative agreement. DoD Components will provide a proposed Congressional notice including the reason for use of the authority to designate a particular contractor or subcontractor to the ASD(P&L) in sufficient time to forward to Congress prior to the time of contract award.

(b) Congressional notification is also required each time a statutory waiver in accordance with 225.7904(b) is exercised if such information was not provided in the certification to Congress prior to finalization of the cooperative agreement. Exercise of the waiver means a contract award or modification which provides for a statutory exception.

PART 228—BONDS AND INSURANCE

228.001 [Amended]

26. Section 228.001 is amended by removing the definitions "Fidelity bond," "Fidelity bond in policy," and "Purchased insurance."

228.305 [Amended]

27. Section 228.305 is amended by removing paragraph (e)(1); by removing the first two sentences of paragraph (e)(2); and by designating the last sentence of paragraph (e)(2) as paragraph (e).

228.311 [Removed and Reserved]

28. Section 228.311 is removed.

Subpart 228.70—[Removed]

29. Subpart 228.70 is removed and marked "Reserved".

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

231.105 [Removed]

30. Section 231.105 is removed.

PART 233—PROTESTS, DISPUTES, AND APPEALS

31. Section 233.213 is revised to read as follows:

233.213 Obligation to Continue Performance.

See 233.214 for examples of when Alternate I to the clause at FAR 52.233-1, Disputes, is prescribed.

32. Section 233.214 is revised to read as follows:

233.214 Contract Clause.

(a) The contracting officer shall use Alternate I to the clause at FAR 52.233-1, Disputes, when acquiring aircraft, spacecraft and launch vehicles, naval vessels, missile systems, tracked combat vehicles, and related electronic systems.

(b) Alternate I may also be used in those contracts or classes of contracts when it has been determined, in accordance with Department procedures, that it is essential because of unusual circumstances in which the performance of a contract may be so vital to the national security or to the public health and welfare that performance must be guaranteed even in the event of a dispute that may be characterized as a claim relating to, as opposed to arising under, the contract. Examples of the types of unusual circumstances when continued performance may be determined to be vital to the national security or public health and welfare include the acquisition of weapons, support

systems, and related components other than those listed above, or other essential supplies or services whose timely procurement from other sources would be impracticable. The determination to use the Alternate I in other situations shall be made by the head of the contracting activity responsible for the acquisition involved.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

235.001 [Amended]

33. Section 235.001 is amended by removing the definitions "Educational or other nonprofit organization" and "Unsolicited proposal".

235.005 [Removed]

34. Section 235.005 is removed.

235.006 [Removed]

35. Section 235.006 is removed.

235.007 [Amended]

36. Section 235.007 is amended by removing the first three sentences of paragraph (b); by removing paragraph (c); by removing the first sentence of paragraph (g); by revising the second sentence of paragraph (g) to read: "During the preproposal conference the contracting officer may elect to provide prospective offerors with the Government's estimate of the scientific."; by removing the last sentence of paragraph (g); and by removing paragraph (i).

235.008 [Removed]

37. Section 235.008 is removed.

235.010 [Amended]

38. Section 235.010 is amended by removing the first sentence of paragraph (b); and by substituting in the second sentence of paragraph (b) between the word "for" and the word "service" the words "the DTIC" in lieu of the word "this".

235.071 [Amended]

39. Section 235.071 is amended by adding in paragraph (c) between the word "for" and the reference "35.7103(a)" the word "in".

PART 245—GOVERNMENT PROPERTY

245.306 [Removed]

40. Sections 245.306 and 245.306-2 are removed.

245.403 [Amended]

41. Section 245.403 is amended by removing paragraph (a) and by redesignating paragraph (b) as paragraph "(S-70)".

42. Section 245.603-71 is added to read as follows:

245.603-71 Disposal of Contractor Inventory for NATO Cooperative Projects.

NATO cooperative project agreements may stipulate provisions for disposal of jointly acquired property without regard to any laws of the United States applicable to the disposal of property owned by the United States. Disposal of such property may include a transfer of the interest of the United States in such property to one of the other governments participating in the cooperative agreement or the sale of such property. Payment for the transfer or sale of any interest of the United States in any such property shall be made in accordance with the terms of the cooperative agreement. In those cases where disposal arrangements are included in the project agreement, disposal will be carried out in accordance with the agreement in lieu of the normal unilateral disposal determinations and procedures dictated by FAR 45.603 and 245.603-70 above.

43. Section 245.606-5 is amended by adding paragraph (e) to read as follows:

245.606-5 Instructions for Preparing and Submitting Schedules of Contractor Inventory.

* * * * *

(e) *Instructions for Completing Specific Forms.*

(4) *Inventory Schedule D (Special Tooling and Special Test Equipment) (SF 1432).*

(ii) *Description.* Columns F1 and F2 apply to termination inventory that is included in the settlement proposal. Include cost of inventory acquired for performance of the entire contract in column F1. The cost of inventory acquired solely for the terminated portion of the contract will be shown in column F2. In the event of a partial contract termination, cost of inventory acquired for the entire contract must be prorated between the terminated and non-terminated portions of the contract.

245.607-70 [Amended]

44. Section 245.607-70 is amended by adding following the third sentence a sentence reading: "A plant clearance case will be established and limited screening performed in accordance with FAR 45.608-4."

45. Section 245.608-1 is amended by adding paragraph (a) and by removing paragraph (b), to read as follows:

245.608-1 General.

(a) To promote maximum utilization within the Government, property included in the contractor's inventory schedules shall be screened prior to disposition by donation or sale. The plant clearance officer shall arrange, in such a manner as to avoid interruption of the contractor's operations, for physical inspection of such property at

the contractor's plant if requested by the prospective transferees.

46. Section 245.608-2 is added to read as follows:

245.608-2 Standard Screening.

(b)(1) Screening from the first to the 30th day shall be within the procuring department and the requiring department if such is not the procuring department. The requiring department shall have the first priority for retention of the listed items.

47. Section 245.608-5 is added to read as follows:

245.608-5 Procedures for Automatic Data Processing Equipment (ADPE).

(d)(1) Items of ADPE which are Government-owned or which are leased by the contractor under terms which provide the Government an option to purchase or other residual interests (including the right to use until expiration of the lease) will be reported to the Defense Automation Resources Information Center (DARIC) pursuant to DoD 7950.1-M, Automation Resources Management Program.

48. Section 245.608-70 is amended by substituting in paragraph (a) the acronym "SRD" in lieu of the acronym "ARD"; by changing the addressee in paragraph (b) to read: "Defense Reutilization and Marketing Region—Memphis (DRMA—Memphis)" in lieu of "Defense Industrial Plant Equipment Center (DIPEC), Attn: DIPEC-SSB"; by substituting at the beginning of paragraph (c) the words "DRMR—Memphis" in lieu of the acronym "DIPEC"; by revising paragraph (d); by substituting in the first, second, and third sentences of paragraph (e) the words "DRMR—Memphis" in lieu of the acronym "DIPEC"; and by substituting in paragraph (f) the words "DRMR—Memphis" in lieu of the words "DIPEC, Attn: DIPEC-SSB", to read as follows:

245.608-70 Contractor Inventory Redistribution System (CIRS).

* * * * *

(d) Property submitted for CIRS-processing will be subjected to a 30-day DoD screening period. The requiring activity within the requiring Department shall have requisitioning priority over other activities within the requiring Department and over the procuring Department when the requiring and procuring Departments are different. DRMR—Memphis reports items not requisitioned to the General Services Administration on the 31st day, unless the plant clearance officer provided special instructions to the contrary on the Standard Form 120. For example, items not reportable to GSA, such as

hazardous cleaners and solvents, otherwise usable, should be screened within DoD for redistribution to another user or the item manager; and

245.610-1 [Amended]

49. Section 245.610-1 is amended by removing in the last sentence of paragraph (a)(1)(ii) the words "purchase, retention, or"; and by removing in the first sentence of paragraph (a)(3)(i) between the words "with" and the acronym "FAR" the words "245.613(d) and".

245.613 [Removed]

50. Section 245.613 is removed.

245.7101-3 [Amended]

51. Section 245.7101-3 is amended by substituting between the word "Document" and the word "be" the word "may" in lieu of the word "shall".

52. Section 245.7101-10 is added to read as follows:

245.7101-10 DD Form 1637.

Notice of Acceptance of Inventory shall be prepared to open each case and shall be distributed as follows: original to the contractor, one copy to the property administrator, and one copy to the termination contracting officer when termination inventory is involved.

245.7102-4 [Amended]

53. Section 245.7102-4 is amended by substituting in paragraph (b)(2) the years "1980" and "1982" in lieu of the years "1970" and "zzzz" respectively.

54. Section 245.7102-7 is added to read as follows:

245.7102-7 Standard Form 1424.

Inventory Disposal Report shall be prepared for each completed plant clearance case. These reports shall be distributed to the appropriate contracting officer and to the referring activity when a case is forwarded to another activity for plant clearance actions. The primary plant clearance officer shall be responsible for preparing and distributing a consolidated Inventory Disposal Report for termination inventory that forms the basis for a claim against the Government. Consolidated reports will be provided for each termination docket number. All items on the form are self-explanatory, except as follows:

(a) *Item 11.* Insert total acquisition cost of inventory reported for plant clearance purposes.

(b) *Item 12.* Insert net increase or decrease due to shortages, overages, errors, pricing or withdrawals, etc. Explain in Item 26, "Remarks".

(c) *Item 14.* Insert amount which contractor in possession is retaining or withdrawing at full acquisition cost after the plant clearance case was opened (see FAR 45.605-1).

(d) *Item 15.* Insert full acquisition cost in appropriate column, and in "Proceeds" column insert the acquisition cost less approved handling, transportation, and restocking charges (see FAR 45.605-2).

(e) *Item 16.* Insert the total acquisition cost for all transfers accomplished. For line 16A, insert subtotals representing the value of redistributions within the agency to which the inventory was contractually accountable, i.e., assets accountable to a NASA contract that are retained by NASA. For line 16B, insert subtotals for redistributions to agencies other than the agency to which the assets were contractually accountable.

(f) *Item 18.* Insert acquisition cost and gross proceeds. Where approved costs of sale are reimbursed from proceeds, net proceeds shall be identified under "Remarks".

(g) *Item 19.* Insert acquisition cost of inventory sold by the contractor with proceeds applied as a credit to overhead.

(h) *Items 20 and 21.* May be used to report transactions not otherwise identified such as assets shipped to a Government precious metals reclamation activity, etc. Insert the type of transaction and provide further explanation in "Remarks", if necessary.

(i) *Item 25.* Line items and acquisition cost must equal line 13 and must account for all disposal actions within the case.

(j) *Item 26.* Explain all entries in Item 12. Show specific disposition of proceeds reported in Items 14, 15, and 18. Indicate contract number and posting reference to which proceeds were applied and verified, amounts deleted for specific contractor claims, or applied as a credit to the claim. If payment was made to the Government, indicate disbursing office where proceeds were deposited. Explain any unusual entries requiring explanation.

PART 247—TRANSPORTATION

55. Section 247.271-3 is amended by revising the introductory text of paragraph (b)(2); by adding in paragraph (c)(1) to the zip code "07002" the digits "-5302" and to the zip code "94626" the digits "-5000"; and by substituting in the address at the end of paragraph (c)(2) the address "5611 Columbia Pike, Falls Church, VA 22041-5050" in lieu of "Washington, D.C. 20315"; to read as follows:

247.271-3 Procedure.

(b) * * *

(2) *Additional Services.* Additional services include, but are not limited to, hoisting or lowering of articles, waiting time, special packaging, stuffing or unstuffing of seavan containers and other services not specified in the bid items. Additionally, local moves that do not require drayage may be procured by the hourly rate of constructive weight methods. The rate will include packing, movement, inventorying, unpacking, removal of debris and other services necessary for completion of the movement. Each ITO shall determine if local requirements exist for any additional services. At the option of the contracting officer, additional services may be obtained by:

56. Section 247.271-4 is amended by removing paragraph (a)(3); by redesignating the existing paragraph (a)(4) as paragraph (a)(3); by substituting in the first sentence of the redesignated paragraph (a)(3) the words "as provided by the installation transportation office as contained in DoD 4500.34-R, Personal Property Traffic Management Regulation," in lieu of the words "at 252.247-7103"; by removing the last sentence of the redesignated paragraph (a)(3); by substituting in paragraph (b)(1) the citation "252.247-7103" in lieu of the citation "252.247-7104"; by substituting in paragraph (b)(2) the citation "252.247-7104" in lieu of the citation "252.247-7105"; by substituting in paragraph (b)(4) the citation "252.247-7105" in lieu of the citation "252.247-7106"; by substituting in paragraph (b)(5) the citation "252.247-7106" in lieu of the citation "252.247-7107"; by substituting in paragraph (b)(6) the citation "252.247-7107" in lieu of the citation "252.247-7108"; by substituting in paragraph (b)(7) the citation "252.247-7108" in lieu of the citation "252.247-7109"; by revising paragraphs (b)(8) through (b)(15); and by removing paragraphs (b)(16) through (b)(19); to read as follows:

247.271-4 Solicitation Provisions, Schedule Formats, and Contract Clauses.

(b) * * *

(8) 252.247-7109, Dumurrage.

(9) 252.247-7110, Liability.

(10) 252.247-7111, Erroneous Shipments.

(11) 252.247-7112, Subcontracting.

(12) 252.247-7113, Drayage.

(13) 252.247-7114, Additional Services.

(14) FAR 52.247-2, Permits, Authorities, or Franchises.

(15) FAR 52.247-8. Estimated Weight or Quantities Not Guaranteed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.203-7001 [Amended]

57. Section 252.203-7001 is amended by substituting in the first sentence of paragraph (b) of the clause between the word "capacity" and the word "any" the word "on" in lieu of the word "or".

58. Section 252.225-7022 is added to read as follows:

252.225-7022 Certification and Agreement by Contractors Currently Producing Petroleum Products in Angola.

As prescribed at 225.704(S-70), insert the following clause:

Certification and Agreement by Contractors Currently Producing Petroleum Products in Angola (Apr 1987)

(a) Under section 316 of the National Defense Authorization Act for Fiscal Year 1987, Pub. L. 99-661, the Department of Defense may not purchase Angolan petroleum products from companies producing oil in Angola unless a waiver is granted by the Secretary of Defense or his designee. Any Offeror producing a petroleum product in Angola or who has an affiliate, subsidiary or partnership enterprise producing a petroleum product in Angola may be ineligible for award under this solicitation, if it intends to use a petroleum product of Angolan origin in the performance of any resultant contract. An Offeror producing a petroleum product in Angola or who has an affiliate, subsidiary or partnership enterprise producing oil in Angola must complete the certification below.

(b) For purposes of this clause, the term "petroleum product" means natural or synthetic crude; blends of natural or synthetic crude; and products refined or derived from natural or synthetic crude or from such blends.

(c) CERTIFICATION. Offeror hereby certifies that the petroleum product to be supplied under any contract resulting from this solicitation / ☐ DOES / ☐ DOES NOT contain any Angolan petroleum product or any product derived from Angolan oil.

(d) AGREEMENT. Offerors required by paragraph (a) to complete the certification set forth in paragraph (c) and who certify in paragraph (c) that the petroleum product to be supplied DOES NOT contain any Angolan petroleum product agree that the petroleum product to be supplied under any resulting contract will not contain any Angolan petroleum product or any product derived from Angolan oil.
(End of clause)

252.228-7005 [Removed and Reserved]

59. Section 252.228-7005 is removed and marked "Reserved."

60. Section 252.247-7100 is amended by changing the date of the provision

from "FEB 1983" to read "JUN 1987"; by adding after the second sentence of paragraph (a) of the provision a sentence in parentheses reading: "(If there is to be no charge for an item, an entry such as 'No charge', or the letters 'N/C' or 'O', must be made in the unit price column of the schedule.); by adding paragraphs (c) and (d) to the provision; by changing the date of Alternate I from "FEB 1983" to read "JUN 1987"; and by designating paragraph (c) following Alternate I to paragraph (e); to read as follows:

252.247-7100 Evaluation of Bids.

* * * * *

(c) When drayage is necessary for the accomplishment of any item within the bid schedule, costs for bridge or ferry tolls, road use charges or similar expense shall be included in the unit price.

(d) Unless otherwise provided herein, prices must be stated in amounts per hundred pounds on gross or net weights, whichever is applicable. All charges shall be subject to and payable on the basis of a minimum weight of hundred pounds net or gross, whichever is applicable.

* * * * *

252.247-7102 [Removed and Reserved]

61. Section 252.247-7102 is removed and marked "Reserved."

252.247-7103 [Removed]

62. Section 252.247-7103 is removed.

63. Section 252.247-7104 is redesignated as section 252.247-7103 and revised to read as follows:

252.247-7103 Scope of Contract.

As prescribed at 247.271-4(b)(1), insert the following clause:

Scope of Contract (Jun 1987)

The Packing and Containerization Contractor, hereafter referred to as Contractor, shall furnish services and materials for the preparation of personal property (including servicing of appliances) for movement or storage, drayage and related services. Unless otherwise indicated in the Schedule, the Contractor shall (i) furnish all materials except Government-owned containers (Federal Specification PPP-B-580), all equipment, plant and labor; and (ii) perform all work in accomplishing containerization of personal property for overseas or domestic movement or storage; stenciling; cooperage; drayage of personal property in connection with other services; decontainerization of inbound shipments of personal property; and the handling of shipments into and out of the Contractor's facility. Excluded from the scope of this contract is the furnishing of like services or materials which are provided incident to complete movement of personal property when purchased by the Through Government

Bill of Lading or other method/mode of shipment or property to be moved under the Do-It-Yourself moving program or otherwise moved by the owner.
(End of clause)

64. Section 252.247-7105 is redesignated as 252.247-7104 and revised to read as follows:

252.247-7104 Period of Contract.

As prescribed at 247.271-4(b)(2), insert the following clause:

Period of Contract (Jun 1987)

This contract shall begin 1 January 19____ and shall end 31 December 19____, both dates inclusive, *Provided*, however, that any work ordered before, and not completed by, the expiration of this contract period shall be governed by the terms of this contract. New orders requiring commencement of performance more than fifteen (15) days after the expiration date shall not be placed under this contract. Orders required for the completion of services (for shipments in the Contractor's possession) may be placed against this contract for one hundred eighty (180) days past the end date.
(End of clause)

252.247-7106, 252.247-7107, 252.247-7108 and 252.247-7109 [Redesignated as 252.247-7105, 252.247-7106, 252.247-7107, and 252.247-7108]

65. Sections 252.247-7106, 252.247-7107, 252.247-7108, and 252.247-7109 are redesignated 252.247-7105, 252.247-7106, 252.247-7107, and 252.247-7108 respectively.

252.247-7110 and 252.247-7111 [Removed]

66. Sections 252.247-7110 and 252.247-7111 are removed.

252.247-7112 [Redesignated as 252.247-7109 and Amended]

67. Section 252.247-7112 is redesignated as 252.247-7109 and the redesignated section 252.247-7109 is amended by changing in the introductory text the citation to read "247.271-4(b)(8)" in lieu of the citation "247.271-4(b)(10)".

252.247-7113 [Removed]

68. Section 252.247-7113 is removed.

252.247-7114 [Redesignated as 252.247-7113]

69. Section 252.247-7114 is redesignated as 252.247-7113.

252.247-7115 [Redesignated as 252.247-7110 and Amended]

70. Section 252.247-7115 is redesignated as 252.247-7110 and the redesignated section 252.247-7110 is amended by changing in the introductory text the citation to read

"247.271-4(b)(9)" in lieu of the citation "247.271-4(b)(13)".

252.247-7116 [Redesignated as 252.247-7111 and Amended]

71. Section 252.247-7116 is redesignated as 252.247-7111 and the redesignated section 252.247-7111 is amended by changing in the introductory text the reference to read "247.271-4(b)(10)" in lieu of the reference "247.271-4(b)(14)"; by changing the date of the clause from "MAY 1977" to read "JUN 1987"; and by adding before the period at the end of the last sentence of paragraph (b) of the clause the words "in excess of what it would have cost the Government had the entire lot been shipped at the same time".

252.247-7117, 252.247-7118 and 252.247-7119 [Removed]

72. Sections 252.247-7117, 252.247-7118, and 252.247-7119 are removed.

252.247-7120 [Redesignated as 252.247-7112 and Amended]

73. Section 252.247-7120 is redesignated as 252.247-7112 and the redesignated section 252.247-7112 is amended by changing in the introductory text the reference to read "247.271-4(b)(11)" in lieu of the reference "247.271-4(b)(18)".

74. Section 252.247-7121 is redesignated at 252.247-7114 and the redesignated section 252.247-7114 is revised to read as follows:

252.247-7114 Additional Services.

As prescribed at 247.271-4(b)(13), insert the following clause:

Additional Services (Jun 1987)

Additional services not included in the schedule, but required for satisfactory completion of the services ordered under this contract shall be provided at a rate comparable to the rate for like services as contained in tenders on file with the ICC, state regulatory bodies, or MTMC, in effect at time of order.
(End of clause)

PART 253—FORMS

75. The list of forms following section 253.270 is amended by removing the listing "253.303-70-DD-558-1 DD Form 558-1: Bidder's Mailing List Application Supplement"; and by removing the listing "253.303-70-DD-1660 DD Form 1660: Management Control Systems Summary List".

[FR Doc. 88-22065 Filed 9-28-88; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Parts 232 and 252

[Defense Acquisition Circular (DAC) 86-8]

Department of Defense; Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-8 amends the DoD FAR Supplement (DFARS) with respect to Progress Payments.

EFFECTIVE DATE: November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987, revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-5.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Regulatory Flexibility Act

This rule implements legislative direction contained in the Department of Defense Appropriations Act of 1987. It will impact small business entities because progress payment rates will be changed. A Regulatory Flexibility Analysis was prepared and submitted to the Chief Counsel for Advocacy, Small Business Administration, Washington, DC.

C. Paperwork Reduction Act

This rule changes rates of progress payments only and not existing procedures; therefore, additional paperwork burden is not involved.

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[Defense Acquisition Circular No. 86-8]

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense

Acquisition Circular is effective November 5, 1987.

Defense Acquisition Circular (DAC) 86-8 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Progress Payments

During the last two years, several changes were made to DoD's progress payments policies as a result of reforms undertaken by DoD and legislative direction, primarily the Defense Procurement Improvement Act of 1986 and the DoD Appropriations Act of 1987. The new policies were all implemented through Departmental Implementation Letters issued by the DAR Council. This action consolidates those policies under a single DAC item by republishing DFARS Subparts 232.1 and 232.5, as well as the related clauses. A summary of the policy changes is as follows:

(a) The uniform customary progress payment rate for large businesses is 75%.

(b) The uniform customary progress payment rate for small businesses is 80%.

(c) The contractor investment level required for flexible progress payments is 25%. A redetermination of the flexible rate is required if the investment is below 23% or above 27%.

(d) The separate uniform progress payment rates for Foreign Military Sales (FMS) contracts have been eliminated.

(e) The retainage limit for payments under fixed-price construction contracts is 15%.

(f) The percentage specified for payments under fixed-price architect-engineer contracts is 85%.

(g) Policy changes that had been directed under the Defense Procurement Improvement Act have been adopted in the Federal Acquisition Regulation (reference Federal Acquisition Circular 84-29). An interim rule was published on August 14, 1987, at 52 FR 30368 with respect to progress payments on construction and architect-engineer contracts.

Item II—Editorial Corrections

(a) Editorial corrections are made to 232.170-3, 232.170-3(b), and 232.171 to reflect the correct title for the Assistant Secretary of Defense (Production and Logistics).

(b) Editorial corrections are made to paragraphs (b)(4) and (b)(4)(i) of the clause at 252.232-7000, and to the last sentence of the clause at 252.232-7001.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority citation for 48 CFR Parts 232 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 232—CONTRACT FINANCING

2. The interim rule published at 52 FR 30369 (August 14, 1987) is adopted as final without change.

232.170-3 [Amended]

3. Section 232.170-3 is amended by substituting in the first and second sentences of the introductory text the word "Production" for the word "Acquisition"; and by substituting in the first, third and fourth sentences of paragraph (b) the word "Production" for the word "Acquisition".

232.171 [Amended]

4. Section 232.171 is amended by substituting in the penultimate sentence the word "Production" for the word "Acquisition".

5. Section 232.501-1 is revised to read as follows:

232.501-1 Customary Progress Payment Rates.

(a) The customary progress payment rate applicable to DoD contracts awarded to large businesses is 75 percent and 80 percent for small businesses. The customary progress payment rate applicable to Foreign Military Sales requirements is the same as that applicable to DoD requirements. The customary progress payment rate for flexible progress payments is the rate determined by use of either the CASHII, CASHIII, or CASHIV computer program as applicable in accordance with the requirements of 232.502-1(S-71).

232.501-2 [Amended]

6. Section 232.501-2 is amended by substituting in the first sentence of paragraph (a) the word "Production" in lieu of the word "Acquisition".

232.502-1 [Amended]

7. Section 232.502-1 is amended by removing in the third sentence of paragraph (S-71)(1) the words "(i.e., 90% or 95%)"; by changing in the third and fourth sentences of paragraph (S-71)(2) the percentage figure to read "25%" in lieu of "5%"; by changing the first word of the fifth sentence of paragraph (S-71)(2) to read "The" in lieu of the word "This"; by changing in the first sentence of paragraph (S-71)(4) the designation

"CASH II" to read "CASH IV"; by changing in the first sentence of paragraph (S-71)(7) the percentage figures to read "27%" and "23%" in lieu of "7%" and "3%" respectively; and by changing in the second sentence of paragraph (S-71)(7) the percentage figure to read "25%" in lieu of "5%".

232.502-2 [Amended]

8. Section 232.502-2 is amended by substituting the word "Production" in lieu of the word "Acquisition".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**252.232-7004 [Amended]**

9. Section 252.232-7004 is amended by changing the date of the clause to read "OCT 1986" in lieu of "APR 1984"; by changing in the third sentence of the clause the percentage rate to read "twenty-five percent (25%)" in lieu of "five percent (5%)"; and by changing in the fourth sentence of the clause the percentage rates to read "twenty-seven percent (27%)" and "twenty-three percent (23%)" in lieu of "seven percent (7%)" and "three percent (3%)" respectively.

10. Sections 252.232-7005 and 252.232-7006 are revised; and section 252.232-7007 is added to read as follows:

252.232-7005 Payments Under Fixed-Price Construction Contracts.

As prescribed in 232.111(S-71), insert the following clause:

Payments Under Fixed-Price Construction Contracts (Apr 1986) (Dev)

(a) The Government shall pay the Contractor the contract price as provided in this contract.

(b) The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets standards of quality established under the contract, as approved by the Contracting Officer. If requested by the Contracting Officer, the Contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration if—

(1) Consideration is specifically authorized by this contract; and

(2) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of fifteen percent (15%) of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(d) All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as—

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(e) In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (c) above shall not apply to that portion of progress payments attributable to bond premiums.

(f) The Government shall pay the amount due the Contractor under this contract after—

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(g) Notwithstanding any other provision of this contract, progress payments shall not exceed eighty percent (80%) on work accomplished on undifferentiated contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes. (End of clause)

252.232-7006 Payments Under Fixed-Price Architect-Engineer Contracts.

As prescribed in 232.111(S-72), insert the following clause:

Payments Under Fixed-Price Architect-Engineer Contracts (Aug. 1987) (Dev)

(a) Estimates shall be made monthly of the amount and value of the work accomplished and services performed by the Contractor under this contract which meet standards of quality established under this contract. The estimates shall be prepared by the Contractor and accompanied by any supporting data required by the Contracting Officer.

(b) Upon approval of the estimate by the Contracting Officer, payment upon properly executed vouchers shall be made to the Contractor, as soon as practicable, of eighty-five percent (85%) of the approved amount, less all previous payments; *provided*, that payment may be made in full during any months in which the Contracting Officer determines that performance has been satisfactory. Also, whenever the Contracting Officer determines that the work is substantially complete and that the amount retained is in excess of the amount adequate for the protection of the Government, the Contracting Officer may release the excess amount to the Contractor.

(c) Upon satisfactory completion by the Contractor and acceptance by the Contracting Officer of the work done by the Contractor under the "Statement of Architect-Engineer Services", the Contractor will be paid the unpaid balance of any money due for work under the statement, including retained percentages relating to this portion of the work. If the Government exercises the option under the Option for Supervision and Inspection Services clause, progress payments as provided in (a) and (b) above will be made for this portion of the contract work. Upon satisfactory completion and final acceptance of the construction work, the Contractor shall be paid any unpaid balance of money due under this contract.

(d) Before final payment under the contract, or before settlement upon termination of the contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than any claims that are specifically excepted by the Contractor from the operation of the release in amounts stated in the release.

(e) Notwithstanding any other provision in this contract, and specifically paragraph (b) of this clause, progress payments shall not exceed eighty percent (80%) on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes. (End of clause)

252.232-7007 Progress Payments.

(a) As prescribed in 232.502-4(S-72), insert the following clause in solicitations and fixed-price contracts under which the Government will provide progress payments based on costs. A different customary rate for other than small business concerns may be substituted in accordance with 232.502-4(S-73) for the progress payment and liquidation rate indicated.

(b) If an unusual progress payment rate is approved for the prime contractor (see FAR 32.501-2), the rate approved shall be substituted for the customary rate in paragraph (a)(1).

(c) If the liquidation rate is changed from the customary progress payment rate (see FAR 32.503-8 and FAR 32.503-9), the new rate shall be substituted for the rate in paragraphs (a)(4), (a)(5), and (b).

(d) If advance and progress payments are authorized in the same contract, the words "less any unliquidated advance payments" may be deleted from paragraph (a)(4) of this clause.

(e) If an unusual progress payment rate is approved for a subcontract (see FAR 32.504(b) and FAR 32.501-2), subparagraph (j)(4) shall be modified to specify the new rate, the name of the subcontractor, and that the new rate shall be used for that subcontractor in lieu of the customary rate.

Progress Payments (Oct 1986)

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly in amounts approved by the Contracting Officer, under the following conditions:

(a) Computation of Amounts.

(1) Unless the Contractor requests a smaller amount, each progress payment shall be computed as (i) seventy-five percent (75%) of the Contractor's cumulative total costs under this contract, as shown by records maintained by the Contractor for the purpose of obtaining payment under Government contracts, plus (ii) progress payments to subcontractors (see paragraph (j) below), all less the sum of all previous progress payments made by the Government under this contract. Cost of money that would be allowable under 31.205-10 of the Federal Acquisition Regulation shall be deemed an incurred cost for progress payment purposes.

(2) The following conditions apply to the timing of including costs in progress payment requests:

(i) The costs of supplies and services purchased by the Contractor directly for this contract may be included only after payment by cash, check, or other form of actual payment.

(ii) Costs for the following may be included when incurred, even if before payment, when the Contractor is not delinquent in payment of the costs of contract performance in the ordinary course of business:

(A) Materials issued from the Contractor's stores inventory and placed in the production process for use on this contract.

(B) Direct labor, direct travel, and other direct in-house costs.

(C) Properly allocable and allowable indirect costs.

(iii) Accrued costs of Contractor contributions under employee pension, profit sharing, and stock ownership plans shall be excluded until actually paid unless—

(A) The Contractor's practice is to contribute to the plans quarterly or more frequently; and

(B) The contribution does not remain unpaid thirty (30) days after the end of the applicable quarter or shorter payment period (any contributions remaining unpaid shall be excluded from the Contractor's total costs for progress payments until paid).

(iv) If the contract is subject to the special transition method authorized in Cost Accounting Standard (CAS) 410, Allocation of Business Unit General and Administrative Expense to Final Cost Objective, General and Administrative expenses (G&A) shall not be included in progress payment requests until the suspense account prescribed in CAS 410 is less than—

(A) Five million dollars (\$5 million); or

(B) The value of the work-in-process inventories under contracts entered into after the suspense account was established (only a pro rata share of the G&A allocable to the excess of the inventory over the suspense account value is includable in progress payment requests under this contract).

(3) The Contractor shall not include the following in total costs for progress payment purposes in subparagraph (a)(1)(i) above:

(i) Costs that are not reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices.

(ii) Costs incurred by subcontractors or suppliers.

(iii) Costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(iv) Payments made or amount payable to subcontractors or suppliers, except for—

(A) completed work, including partial deliveries, to which the Contractor has acquired title; and

(B) Work under cost-reimbursement or time-and-material subcontracts to which the Contractor has acquired title.

(4) The amount of unliquidated progress payments may exceed neither (i) the progress payments made against incomplete work (including allowable unliquidated progress payments to subcontractors) nor (ii) the value, for progress payment purposes, of the incomplete work. Incomplete work shall be considered to be the supplies and services required by this contract, for which delivery and invoicing by the Contractor and acceptance by the Government are incomplete.

(5) The total amount of progress payments shall not exceed seventy-five percent (75%) of the total contract price.

(6) If a progress payment or the unliquidated progress payments exceed the

amounts permitted by subparagraphs (a)(4) or (a)(5) above, the Contractor shall repay the amount of such excess to the Government on demand.

(b) *Liquidation.* Except as provided in the Termination for Convenience of the Government clause, all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress payments, the unliquidated progress payments, or seventy-five percent (75%) of the amount invoiced, whichever is less. The Contractor shall repay to the Government any amounts required by a retroactive price reduction, after computing liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to an alternate rate when deemed appropriate for proper contract financing.

(c) *Reduction or Suspension.* The Contracting Officer may reduce or suspend progress payments, increase the rate of liquidation, or take a combination of these actions, after finding on substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (f) and (g) below).

(2) Performance of this contract is endangered by the Contractor's (i) failure to make progress or (ii) unsatisfactory financial condition.

(3) Inventory allocated to this contract substantially exceeds reasonable requirements.

(4) The Contractor is delinquent in payment of the costs of performing this contract in the ordinary course of business.

(5) The unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract.

(6) The Contractor is realizing less profit than that reflected in the establishment of any alternate liquidation rate in paragraph (b) above, and that rate is less than the progress payment rate stated in subparagraph (a)(1) above.

(d) *Title.*

(1) Title to the property described in this paragraph (d) shall vest in the Government. Investiture shall be immediately upon the date of this contract, for property acquired or produced before that date. Otherwise, investiture shall occur when the property is or should have been allocable or properly chargeable to this contract.

(2) "Property", as used in this clause, includes all of the below-described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices.

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract;

(iii) Nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges,

test equipment, and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (d)(2)(ii) above; and

(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract, e.g., the termination or special tooling clauses, shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract without requesting the Contracting Officer's approval, but the proceeds shall be credited against the costs of performance.

(5) To acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor must obtain the Contracting Officer's advance approval of the action and the terms. The Contractor shall (i) exclude the allocable costs of the property from the costs of contract performance, and (ii) repay to the Government any amount of liquidated progress payments allocable to the property.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all progress payments, title shall vest in the Contractor for all property (or the proceeds thereof) not—

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(e) *Risk of Loss.* Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. The Contractor shall repay the Government an amount equal to the unliquidated progress payments that are based on costs allocable to property that is damaged, lost, stolen, or destroyed.

(f) *Control of Costs and Property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports and Access to Records.* The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information reasonably requested by the Contracting Officer for the administration of this clause. Also, the Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's books, records, and accounts.

(h) *Special Terms Regarding Default.* If this contract is terminated under the Default clause, (i) the Contractor shall, on demand, repay to the Government the amount of unliquidated progress payments and (ii) title vest in the Contractor, on full liquidation of

progress payments, for all property for which the Government elects not to require delivery under the Default clause. The Government shall be liable for no payment except as provided by the Default clause.

(i) *Reservations of Rights.*

(1) No payment or vesting of title under this clause shall (i) excuse the Contractor from performance of obligations under this contract or (ii) constitute a waiver of any of the rights to remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause (i) shall not be exclusive but rather shall be in addition to any other rights and remedies provided by law or this contract and (ii) shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(j) *Progress Payments to Subcontractors.*

The amounts mentioned in (a)(1)(ii) above shall be all progress payments to subcontractors or divisions, if the following conditions are met:

(1) The amounts included are limited to (i) the unliquidated remainder of progress payments made plus (ii) for small business concerns any paid subcontractor requests for progress payments that the Contractor has approved for current payment in the ordinary course of business.

(2) The subcontract or interdivisional order is expected to involve a minimum of approximately six (6) months between the beginning of work and the first delivery, or, if the subcontractor is a small business concern, four (4) months.

(3) The terms of the subcontract or interdivisional order concerning progress payments—

(i) Are substantially similar to the terms of the clause at 252.232-7007, Progress Payments, for any subcontractor that is a large business concern, or that clause with its Alternate I for any subcontractor that is a small business concern;

(ii) Are at least as favorable to the Government as the terms of this clause;

(iii) Are not more favorable to the subcontractor or division than the terms of this clause are to the Contractor;

(iv) Are in conformance with the requirements of paragraph 32.504(e) of the Federal Acquisition Regulation; and

(v) Subordinate all subcontractor rights concerning property to which the Government has title under the subcontract to the Government's right to require delivery of the property to the Government if (A) the Contractor defaults or (B) the subcontractor becomes bankrupt or insolvent.

(4) The progress payment rate in the subcontract is the customary rate used by the Contracting Agency, depending on whether the subcontractor is or is not a small business concern.

(5) The parties agree concerning any proceeds received by the Government for property to which title has vested in the Government under the subcontract terms, that the proceeds shall be applied to reducing

any unliquidated progress payments by the Government to the Contractor under this contract.

(6) If no unliquidated progress payments to the Contractor remain, but there are unliquidated progress payments that the Contractor has made to any subcontractor, the Contractor shall be subrogated to all rights the Government obtained through the terms required by this clause to be any subcontract, as if all such rights had been assigned and transferred to the Contractor.

(7) The Contractor shall pay the subcontractor's progress payment request under subparagraph (j)(1)(ii) above, within a reasonable time after receiving the Government progress payment covering those amounts.

(8) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments to small business concerns, in conformity with the standards for customary progress payments stated in Subpart 32.5 of the Federal Acquisition Regulation. The Contractor further agrees that the need for such progress payments shall not be considered as a handicap or adverse factor in the award of subcontracts.

(k) *Limitations on Unliquidated Contract Actions.* Notwithstanding any other progress payment provision in this contract, progress payments may not exceed eighty percent (80%) of costs incurred on work accomplished under unliquidated contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding other administrative changes. This limitation shall apply to the costs incurred, as computed in accordance with paragraph (a), and shall remain in effect until the contract action is definitized. Costs incurred which are subject to this limitation shall be segregated on contractor progress payment requests and invoices from those costs eligible for higher progress payment rates. For purpose of progress payment liquidation, as described in paragraph (b), progress payments for unliquidated contract actions shall be liquidated at eighty percent (80%) of the amount invoiced for work performed under the unliquidated contract action as long as the contract action remains unliquidated. The amount of unliquidated progress payments for unliquidated contract actions shall not exceed eighty percent (80%) of the maximum liability of the Government under the unliquidated contract action or such lower limit specified elsewhere in the contract. Separate limits may be specified for separate actions.

(End of clause)

Alternate I (OCT 1986). If the contract is with a small business concern, change each mention of the progress payment and liquidation rates excepting paragraph (k) to the customary rate of eighty percent (80%) for small business concerns, delete subparagraphs (a)(1) and (a)(2) from the basic clause, and substitute the following subparagraphs (a)(1) and (a)(2):

(a) *Computation of Amounts.*

(1) Unless the Contractor requests a smaller amount, each progress payment shall be computed as (i) eighty percent (80%) of the Contractor's total costs incurred under this contract whether or not actually paid, plus (ii) progress payments to subcontractors (see paragraph (j) below), all less the sum of all previous progress payments made by the Government under this contract. Cost of money that would be allowable under 31.205-10 of the Federal Acquisition Regulation shall be deemed an incurred cost for progress payment purposes.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless—

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid thirty (30) days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's total costs for progress payments until paid).

Alternate II (OCT 1986). If the contract is a letter contract, add paragraphs (l) and (m) shown below. The amount specified in paragraph (n) shall not exceed eighty percent (80%) applied to the maximum liability of the Government under the letter contract. Separate limits may be specified for separate parts of the work.

(1) Progress payments made under this letter contract shall, unless previously liquidated under paragraph (b), be liquidated under the following procedures:

(1) If this letter contract is superseded by a definitive contract, unliquidated progress payments made under this letter contract shall be liquidated by deducting the amount from the first progress or other payments made under the definitive contract.

(2) If this letter contract is not superseded by a definitive contract calling for the furnishing of all or part of the articles or services covered under the letter contract, unliquidated progress payments made under the letter contract shall be liquidated by deduction from the amount payable under the Termination clause.

(3) If this letter contract is partly terminated and partly superseded by a contract, the Government shall allocate the unliquidated progress payments to the terminated and unliquidated portions as the Government deems equitable, and shall liquidate each portion under the relevant procedure in subparagraphs (1) and (2) above.

(4) If the method of liquidating progress payments provided above does not result in full liquidation, the Contractor shall immediately pay the unliquidated balance to the Government on demand.

(m) The amount of unliquidated progress payments shall not exceed ———— (Specify dollar amount).

[FR Doc. 88-22066 Filed 9-28-88; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Parts 202, 203, 205, 209, 213, 215, 216, 220, 222, 225, 232, 236, 237, 242, 243, 246, 247, 251, 252, 270, Appendix A, and Appendix O

[Defense Acquisition Circular (DAC) 86-9]

Department of Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-9 amends the DoD FAR Supplement (DFARS) with respect to the addition of Electronic Security Command as a contracting activity for the Air Force; providing subcontractor information to Cooperative Agreement Holders; acquisition from firms owned or controlled by foreign governments that support terrorism; blanket purchase agreements; provisional delivery payments; changes to Parts 252 and 270; deletions from DFARS (duplication of FAR); change of address for the Armed Services Board of Contract Appeals; deletion of Appendix O, Cost Accounting Standards; editorial corrections; correction to DAC #86-7; and provides information with respect to logistic support and privileges for DoD contractor personnel and family members.

EFFECTIVE DATE: November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-5.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Public Comments

Notices of proposed rules were published in the *Federal Register* requesting Government agencies, private firms, associations, and the general public to submit comments to be considered in the formulation of the final rules.

DAC 86-9, Items I, IV, and VI through X

Public comments were not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures; or compelling reasons required issuance of an interim rule without prior publication for public comment. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88-610D.

DAC 86-9, Item II

An interim rule was published in the Federal Register on April 16, 1987 (52 FR 12386) and public comments were solicited.

DAC 86-9, Item III

A proposed rule was published in the Federal Register on September 3, 1987 (52 FR 33450) and public comments were solicited.

DAC 86-9, Item V

A proposed rule was published in the Federal Register on March 18, 1987 (52 FR 8481) and public comments were solicited. In general, the comments received supported the revision. Therefore, the proposed rule was issued as a final rule, without modification, in the Federal Register on December 11, 1987 (52 FR 47005).

DAC 86-9, Items XI and XII

Public comments were not solicited with respect to these items because they provide informational material.

C. Regulatory Flexibility Act**DAC 86-9, Items I, III, IV, and VI through X**

These revisions are not "significant revisions" as defined in FAR 1.501-1; i.e., they do not alter the substantive meaning of any coverage in the DFARS having a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations, solicitation of agency and public views on these revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

DAC 86-9, Item II

This rule which amends Subpart 205.4 and adds a new clause at 252.205-7000

will have a beneficial impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because small businesses will be furnished with points of contact who will provide small business with information needed to obtain additional subcontracts. An interim rule was published in the Federal Register on April 16, 1987 (52 FR 12387) and public comments were solicited. An Initial Regulatory Flexibility Analysis was prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration.

DAC 86-9, Item V

The proposed rule published in the Federal Register on March 18, 1987, contained initial Regulatory Flexibility Act information and requested comments, particularly from small entities. No comments were received. A final rule was published on December 11, 1987 (52 FR 47005).

DAC 86-9, Items XI and XII

These items provide informational material; therefore the Regulatory Flexibility Act does not apply.

D. Paperwork Reduction Act**DAC 86-9, Items I and III through X**

The Paperwork Reduction Act does not apply because these final rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

DAC 86-9, Item II

This rule contains information collection requirements which require OMB approval under 44 U.S.C. 3501 et seq. On November 18, 1987, OMB approved an increase in burden of 16,250 hours under 0704-0286.

DAC 86-9, Items XI and XII

These items provide information material; the Paperwork Reduction Act does not apply.

List of Subjects in 48 CFR Parts 202, 203, 205, 209, 213, 215, 216, 220, 222, 225, 232, 236, 237, 242, 243, 246, 247, 251, 252, 270, Appendix A, and Appendix O

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[Defense Acquisition Circular No. 86-9]

November 30, 1987.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense

Acquisition Circular is effective November 30, 1987.

Defense Acquisition Circular (DAC) 86-9 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Electronic Security command

DFARS 202.101(a) is revised to add the Electronic Security Command to the list of Contracting Activities for the Department of the Air Force.

Item II—Providing Subcontractor Information to Cooperative Agreement Holders

Section 957 of the Defense Acquisition Improvement Act of 1986 (Pub. L. 99-500) requires defense contractors awarded a contract over \$500,000 to provide Cooperative Agreement holders with a list of appropriate employees responsible for award of subcontracts under defense contracts. Such listings need to be provided only upon the specific requests of Cooperative Agreement holders, and need not be provided more than once each year to a Cooperative Agreement holder. A Cooperative Agreement holder is a state or local government or private nonprofit organization which has an agreement with the Defense Logistics Agency to furnish procurement technical assistance to business entities. DFARS 205.470 and a clause at 252.205-7000 are added to provide guidance in effecting the above-mentioned requirement.

Item III—Acquisition From Firms Owned or Controlled by Foreign Governments that Support Terrorism

10 U.S.C. 2327 prohibits award, without a waiver from the Secretary of Defense, of a contract by a Defense agency to a firm or a subsidiary of a firm in which a foreign government owns or controls a significant interest, if such foreign government is the government of a country that has been determined by the Secretary of State to be one that has repeatedly provided support for acts of international terrorism. DFARS 209.170 is added to implement this restriction. Reference to the restriction is added at 225.702 (S-71), and a related clause is added at 252.209-7000.

Item IV—Blanket Purchase Agreements

DFARS 213.204(b) is deleted in its entirety because the \$25,000 limitation for individual calls is specified in FAR 213.204(b).

Item V—Provisional Delivery Payments

DFARS 232.102 has been revised to specify authority and procedures for provisional delivery payments to contractors for supplies and services delivered to and accepted by the Government. Coverage for provisional delivery payments was included in Appendix E of the Defense Acquisition Regulation, but was not carried forward to either the FAR or DFARS. The interim policy letter issued on January 16, 1985, by the Acting Under Secretary of Defense for Research and Engineering, Subject: "Provisional Delivery Payment", is rescinded.

Item VI—Revisions to Parts 252 and 270

Part 270 has been revised because of consolidation of FIPS PUBS. FIPS PUB 1-1 has been updated to 1-2 which consolidates FIPS PUBS 1-1, 7, 13, 35, and 36. FIPS PUB 2 has been updated to FIPS PUB 2-1. Pertinent clauses have been revised to reflect these changes.

Item VII—Deletion From the DFARS (Duplication of FAR)

The following deletions from the DFARS are made (unless noted otherwise) because the coverage is a duplication of coverage contained in the FAR. Minor changes are made as noted.

203.410; 209.105-70(b) (paragraph (c) designated as (b)); 209.303(b)(1); 209.306; 215.803(d); 215.804-2(b)(2); 215.804-3(c)(7); 215.804-4(c); 215.805-1(a) and (b); 216.203-4(c)(3); 216.206 and 216.206-1; 216.207 and 216.207-1; 216.301; 216.301-2; 216.303(b); 216.306(b) (1) and (2) ((b) (3) is moved to the end of (b)); 216.306 (c) (S-70) (first sentence deleted); 216.402-2 (S-70) (first sentence revised; second sentence deleted; last sentence of paragraph (1) deleted; paragraph (2) deleted, except for last sentence; remaining text moved to follow the revised first sentence of paragraph (S-70); paragraph (3) deleted) 216.402-2 (S-71); 216.403(c); 216.404-1(b) (first sentence following title ("Application") deleted); 216.404-2(a); 216.404-2(b)(1) (S-71); 216.404-2(b) (S-72)(i) (paragraphs (ii) and (iii) renumbered (i) and (ii)); 216.404-2(c) (S-71); 216.501(d) (second sentence deleted; last sentence revised); 216.502; 216.503; 216.601; 216.603-2(c) (first sentence deleted); 216.702(b); 216.702(b)(3) (revised); 216.702 (b) (S-70) (first sentence deleted); 216.702 (b) (S-71) through (b) (S-74); 216.703(b); 216.703(c) (first sentence revised; remainder of paragraph deleted); 216.703(c) (S-70) (deleted and marked "Reserved."); 216.703(c) (S-71) (first sentence revised); 222.101-2 (S-70); 222.609; 222.1404; Subpart 222.70 (deleted and marked "RESERVED");

Subpart 222.71 (deleted and marked "RESERVED"); 236.402 (S-70) (paragraph (1) deleted; paragraphs (2) and (3) renumbered (1) and (2)); 236.572-4 (deleted and marked "Reserved"); 236.573-2 (deleted and marked "Reserved"); 236.573-5; 236.602-4(c) (first and second sentences deleted; third sentence revised); 236.606 (S-70) (deleted and marked "Reserved"); Subpart 236.71; 237.104 (S-70) (c), (d), (f), (m), (n) (paragraphs renumbered); 237.205-71(a)(2) through (5); 237.205-71(a) (6) and (7) (renumbered (1) and (1)); 237.304 (S-73); 242.302 (S-73); 242.302 (S-74) (renumbered (S-73)); 242.501; 242.602(a) (first paragraph deleted; undesignated paragraph designated as paragraph (a)); 243.104(a); 243.204 (S-72) (deleted and marked "Reserved"); 244.305-2(c); 246.371; 247.301-2; 251.104; and 252.236-7007 (deleted and marked "Reserved").

Item VIII—Change of Address for the Armed Services Board of Contract Appeals.

Appendix A is revised to reflect the correct address for the Armed Services Board of Contract Appeals.

Item IX—Deletion of Appendix O—Cost Accounting Standards

Appendix O of the DFARS is deleted by this DAC. The Cost Accounting Standards were incorporated into Part 30 of the FAR by FAC 84-30.

Item X—Editorial Corrections

The following editorial corrections are made:

a. DFARS 220.7004(a)(2) is revised by adding a line to the last sentence, to reinsert language which was omitted in the initial printing of the DFARS.

b. DFARS 225.109(a) (S-71) and 225.109(d) (S-71) are deleted because they contain reference to DD Form 1155r which has been canceled.

c. The paragraphs in DFARS 237.104 are renumbered.

d. The first sentence in 242.1203(b)(1) is deleted because the language is contained in the third sentence.

e. "SUBPART" is added to the Title of Subpart 242.14.

f. DFARS 270.306(b) is revised to update classes in FSC Group 70.

g. DFARS 270.322(c)(3) is revised to reflect correct organizational title for DARIC.

h. DFARS 270.324 is revised to reflect correct zip code for the Defense Logistics Agency.

i. The title for 270.607 is changed to clarify reporting requirements. Reference to Part 245 is deleted from the text.

j. DFARS 270.1401 is revised to reflect the correct title of DoD 7950.1-M.

Item XI—Corrections to DAC #87-7

The following corrections are made to DAC #86-7:

a. Item XII, page 8, is corrected to delete the line at the top of the page which reads "208.404-1(a) (last sentence)", and to delete "208.4-1" from the listing of replacement pages for that item. (This change was made in DAC #86-6.)

b. Item XIII, page 9, paragraph (g), is corrected to read as follows:

"DFARS 245.7101-3 is revised to change the word 'shall' to read 'may'."

Item XII—Logistic Support and Privileges for DoD Contractor Personnel and Family Members

DAC #84-13, dated August 30, 1985, Item XXI, entitled Logistic Support and Privileges for DoD Contractor Personnel and Family Members, lists items of logistic support which may be included in DoD contracts and establishes annual dollar values for authorized support privileges. This DAC contains an updated notice and is applicable to contracts to be performed in the Federal Republic of Germany and Italy that support US Government missions and involve individual logistic support and privileges granted by the United States Army, Europe (USAREUR), and Seventh Army to contractor personnel and their family members. The guidance contained in the updated notice is effective for all applicable DoD contracts awarded between October 1, 1987 and October 1, 1989. This item cancels and supersedes Item XXI of DAC #84-13, dated as above.

Special Notice to Contracting Officers Executing Contracts To Be Performed in the Federal Republic of Germany and Italy That Support U.S. Government Missions and Involve Individual Logistic Support and Privileges Granted by the United States Army, Europe (USAREUR), and Seventh Army to Contractor Personnel and Their Family Members

The attention of all contracting offices writing contracts for performance in the Federal Republic of Germany and Italy is directed to DFARS 225.870. The following procedures and criteria apply for authorizing or obtaining individual logistic support and privileges for DoD contractor personnel and their family members in USAREUR. Contracts negotiated with U.S. and 3d Country national physicians for services rendered in support of US medical activities may include military exchange (AAFES-EUR) privileges without

reference to specific financial consideration due the U.S. Government. Contractor personnel who do not qualify for treatment as members of the civilian component, within the meaning of the NATO Status of Forces Agreement and the Supplementary Agreement thereto, cannot use U.S. Forces facilities for the purchase of any goods other than for immediate consumption on the premises. Eligibility criteria remains unchanged.

a. To receive logistic support from USAREUR, contractor personnel who will work in the Federal Republic of Germany must—

(1) Be technical experts (see Appendices A and B) who will serve the US Forces exclusively, and must perform either in an advisory capacity in technical matters, or for the set-up, operation or maintenance of equipment;

(2) Not be stateless persons;

(3) Be nationals of a NATO state, excluding the Federal Republic of Germany; and

(4) Not be ordinarily resident in the Federal Republic of Germany.

Note: "Ordinarily resident" generally refers to a US citizen who has: (1) resided continuously in the Federal Republic of Germany or Berlin for one year or more without status as a member of the "Force" or "Civilian Component" (as defined in the NATO Status of Forces Agreement); or (2) has obtained a work permit of any duration in the host country.

b. To receive logistic support from USAREUR, contractor personnel who will work in Italy must—

(1) Be technical experts who exclusively serve the US Forces; and

(2) Be citizens of a NATO state other than Italy.

c. In accordance with DFARS 225.870, the items of logistic support listed below may be included in contracts awarded on or before 1 October 1989. USAREUR may be contractually bound to provide such support, provided that (i) the contract exclusively serves a US Forces mission; (ii) contractor personnel meet eligibility criteria outlined above; and (iii) the contract contains specific financial or other consideration which the US Government will receive in return for providing individual logistic support.

(1) Commissary (includes rationed items).

(2) AAFES Facilities (Military Exchange) (includes rationed items).

(3) Armed Forces Recreation Facilities.

(4) Class VI (alcoholic beverages, includes rationed items).

(5) Customs Exemption.

(6) Legal Assistance.

(7) Local government transportation for official Government business (nontactical vehicle).

(8) Local Morale/Welfare Recreation Services.

(9) Military Banking Facilities.

(10) Military Postal Service.

(11) Mortuary Service.

(12) Officer or NCO/EM Clubs.

(13) POV (privately-owned vehicle) license for USAREUR.

(14) POV registration for USAREUR.

(15) Purchase of POL (petroleum and oil products).

(16) Transient Billets.

Note: Transient billets may be authorized on a space-available basis after all other eligible personnel have been billeted.

(17) Messing facilities at remote sites only (reimbursable).

(18) Army Continuing Education Services.

(19) Credit Union Facilities.

(20) Dependent Schools, on a space-available, tuition-paying basis.

Note: Dependent Schools are not authorized on a space-required basis for contractor personnel.

(21) Medical/Dental Services on a reimbursable basis: dental care, available only for emergency conditions, on a reimbursable basis.

(22) Pet/Firearm Registration and Control.

(23) NATO Status of Forces Agreement Stamp.

Note: New contracts which include office space logistical support require prior written approval of the Commander-In-Chief, USAREUR (ATTN: AEAEN-IF).

d. Above individual logistic support privileges may only be included in contracts according to one of three packages:

(1) Individual Logistic Support "Package A" includes all privileges listed in Items (1)–(23).

(a) Estimated Annual Dollar Value per individual contractor employee, \$4,777.

(b) Estimated Annual Dollar Value per spouse, \$2,813.

(c) Estimated Annual Dollar Value per family member other than (a) and (b), \$1,418.

(d) Estimated Annual Dollar Value per family of 3 or more, \$9,008.

(2) Individual Logistic Support "Package B" includes privileges listed in Items (3)–(23).

(a) Estimated Annual Dollar Value per individual contractor employee, \$3,511.

(b) Estimated Annual Dollar Value per spouse, \$1,697.

(c) Estimated Annual Dollar Value per family other than (a) and (b), \$602.

(d) Estimated Annual Dollar Value per family of 3 or more, \$5,810.

(3) Individual Logistic Support "Package C" includes privileges listed in Items (5), (7), (17)–(23). These items will be made available to all contractor personnel who qualify as technical experts under this circular without reference to specific financial consideration.

Note: Estimated annual dollar value (unless otherwise noted, this value is defined as difference between costs in obtaining goods and services from USAREUR sources versus costs in obtaining comparable services on the economy)

e. Logistic support for spouse and/or family members will be authorized only if specifically stated in the contract.

f. Contracting officers must ensure that:

(1) The eligibility criteria in a. above has been met;

(2) Technical expert status, as defined in Appendix A, and individual logistic support are required to attract the skills required for effective contract performance;

(3) The contractor has completed the certificate at Appendix B, for filing with the master contract;

(4) The items of logistic support are included in the contract; and

(5) The contracting officer representative (COR) of the USAREUR sponsoring agency must request an Accreditation Letter from CINCUSAREUR (Attn: AEUP-PSSD-PPL, APO NY 09081). COR must submit the following:

(a) Statement of compliance with the provisions of this special notice;

(b) Name of prospective contract company/corporation;

(c) The contract number and expiration date;

(d) The full names of contract personnel, their citizenship and social security or passport numbers (if other than US citizenship), the number of family members (if included in contract), and planned arrival date (if already in country, state present employment and geographical area);

(e) Period of accreditation desired;

(f) The specific package (A, B or C) of logistic support and privileges included in the contract, or a copy of that portion of the contract which addresses individual logistic support privileges; and

(g) APO address of the USAREUR office/element to which the accreditation letter should be forwarded. This should be the military office/element to which the contractor is assigned for administrative and operational control.

Note: The contracting officer may only commit the government to provide status or

support after documenting the basis of his determination and source of approvals in the master contract file.

g. Foreign Military Sales (FMS) Contracts: Contracts in support of foreign military sales to foreign governments are subject to this circular, in accordance with DFARS 201.103. The values defined as differences or savings, in paragraph d. above, are not directly applicable to US Government administrative supports costs in foreign military sales agreements. The direct or indirect costs to the US Government for logistics support provided to FMS contractors (and charged to the requesting country) must be determined on a case-by-case basis considering factors such as: geographic place of performance and specific support requested/provided.

Appendix A—Technical Expert Guidance

1. Definition of "Technical Expert": Employees must meet requirements listed below:

a. For purposes of applying Article 73 of the NATO SOFA Supplementary Agreement, "technical expert" refers to a person with a high degree of skill or knowledge in the systematic procedure by which a complex or scientific task is accomplished, as distinguished from routine mental, manual or physical processes. The skills and knowledge must have been acquired through a process of higher education or through a long period of specialized experience. Skills normally classified as "blue collar" are generally not included. Thus, skilled workers, craftsmen and tradesmen such as electricians, plumbers, painters, masons and carpenters are generally not included. Similarly, not all "white collar" skills are included.

b. The following are examples of positions that have been granted "technical expert" status under Article 73:

(1) Automobile warranty repair technicians for repair of complex automotive equipment;

(2) Key executive and supervisor positions of a government-owned contractor-operator facility which performed major maintenance of US vehicles.

(3) Computer software engineers.

c. The following are examples of positions that have been denied "technical expert" status under Article 73:

(1) Secretaries, clerk-typists;

(2) Sales representatives for computer, encyclopedias, clothes, china, jewelry, and similar items;

(3) Automobile sales representatives; and

(4) Administrative personnel.

2. Contracting offices shall not obligate the government to provide logistic support or grant "technical expert" status to employees of contractors unless all of the following conditions are met:

a. Certificate of Employee Technical Expert Status (Appendix B) is completed by the contractor and maintained with master contract;

b. The contracting officer determines that conferral of "technical expert" status and provision of individual logistic support to a prospective contractor's employees is required in order to attract the technical skills needed for effective contract performance;

c. Financial saving realized by conferring "technical expert" status and providing individual logistic support to some or all of the contractor's employees are reflected in the contract price.

Note: In the event the contracting officer has doubts, which cannot be resolved by supporting legal counsel, approval of "technical expert" status should be obtained on a position-by-position basis from CINCUSAREUR, Attn: AEUPE-PSSO-PPL, APO NY 09081.

Appendix B—Certificate of Employee Technical Expert Status

(Contracts Performed in Federal Republic of Germany)

This is to certify that the following individuals are Technical Experts as provided in Article 73, NATO SOFA Supplemental Agreement and DAC 86-9, since they are as of (day) (month) (year):

a. technical experts as defined in DAC 86-9 who will exclusively serve the US Forces; and

b. will serve either in an advisory capacity in technical matters or to set-up, operate or maintain equipment.

Names of Employees and SSN/Passport No.

No additional fee or cost will be charged by the contractor, should either the conclusion or any part of the data here stated be determined by a US contracting officer to be so erroneous, inaccurate or noncurrent as to disqualify the above employee(s) for Article 73 "technical expert" status.

Contract #1 _____

Firm: _____

Title: _____

Date of Execution: _____

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 202, 203, 205, 209, 213, 215, 216, 220, 222, 225, 232, 236, 237, 242, 243, 246, 247, 251, 252, 270, Appendix A, and Appendix O continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 202—DEFINITIONS OF WORDS AND TERMS

201.1 [Amended]

2. Section 202.1 is amended by removing in the listing in paragraph (a) for the Air Force after the words "Alaskan Air Command" the word "and"; by changing the period to a semi-colon in the listing in paragraph (a) for the Air Force and adding after the words "Space Command" the word "and"; and by adding at the end of the listing in paragraph (a) for the Air Force the words "Electronic Security Command."

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

203.410 [Removed]

3. Section 203.410 is removed.

PART 205—PUBLICIZING CONTRACT ACTIONS

205.470 [Adopted as Final]

4. The interim rule published at 52 FR 12386 (April 16, 1987) is adopted as final without change.

PART 209—CONTRACTOR QUALIFICATIONS

209.105-70 [Amended]

5. Section 209.105-70 is amended by removing paragraph (b) and by redesignating the existing paragraph (c) as paragraph (b).

6. Sections 209.170 and 209.170-1 through 209.170-4 are added to read as follows:

209.170 Acquisition from Firms Owned or Controlled by Foreign Governments that Support Terrorism.

209.170-1 Definition.

"Significant interest" as used in this section means—

(a) Ownership of or beneficial interest in five percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding five percent or more of any class of the firm's securities in "nominee shares", "street names", or some other method of holding securities that does not disclose the beneficial owner;

(b) Holding a management position in the firm such as a director or officer;

(c) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(d) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(e) Holding 50 percent or more of the indebtedness of a firm.

209.170-2 Disclosure.

10 U.S.C. 2327 requires that, for contracts expected to equal or exceed \$100,000, Department of Defense agencies obtain from any firm, or subsidiary of a firm, submitting a bid or proposal, a disclosure in that bid or proposal of any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) which is owned or controlled, directly or indirectly, by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that has been determined by the Secretary of State under 50 U.S.C. 2405(j)(1)(A) to have repeatedly provided support for acts of international terrorism.

209.170-3 Prohibition.

10 U.S.C. 2327(b) prohibits a Defense agency from awarding a contract of \$100,000 or more to a firm or a subsidiary of a firm in which a foreign government owns or controls a significant interest, directly or indirectly, in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary), if such foreign government is the government of a country that has been determined by the Secretary of State under U.S.C. 2405(j)(1)(A) to have repeatedly provided support for acts of international terrorism. The Secretary of Defense may waive this prohibition in accordance with 10 U.S.C. 2327(c).

209.170-4 Solicitation Provision.

The contracting officer shall insert the provision at 252.209-7000, Certification or Disclosure of Ownership or Control by a Foreign Government that Supports Terrorism, in solicitations when the contract is expected to equal or exceed \$100,000.

209.303 [Removed]

7. Section 209.303 is removed.

209.306 [Removed]

8. Section 209.306 is removed.

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

213.204 [Removed]

9. Section 213.204 is removed.

PART 215—CONTRACTING BY NEGOTIATION

215.803 [Amended]

10. Section 215.803 is amended by removing paragraph (d).

215.804-2 [Amended]

11. Section 215.804-2 is amended by removing paragraph (b)(2).

215.804-3 [Amended]

12. Section 215.804-3 is amended by removing paragraph (c)(7); and by changing in the Note following paragraph (e)(3) the word "Acquisition" to read "Production".

215.804-4 [Removed]

13. Section 215.804-4 is removed.

215.805-1 [Removed]

14. Section 215.805-1 is removed.

PART 216—TYPES OF CONTRACTS

216.203-4 [Amended]

15. Section 216.203-4 is amended by removing paragraph (c)(3).

216.206 and 216.206-1 [Removed]

16. Sections 216.206 and 216.206-1 are removed.

216.207 and 216.207-1 [Removed]

17. Sections 216.207 and 216.207-1 are removed.

216.301 and 216.301-2 [Removed]

18. Sections 216.301 and 216.301-2 are removed.

216.303 [Removed]

19. Section 216.303 is removed.

216.306 [Amended]

20. Section 216.306 is amended by removing the colon at the end of the introductory text of paragraph (b); by removing paragraphs (b)(1) and (b)(2); by removing the paragraph (b)(3) designation and by placing the text of that paragraph at the end of the introductory text of paragraph (b) following the word "when"; by lowercasing the "T" at the beginning of the text; and by removing the first sentence of paragraph (c)(S-70).

21. Section 216.402-2 is amended by revising paragraph (S-70) and by removing paragraph (S-71); to read as follows:

216.402-2 Technical Performance Incentives.

(S-70) *Description.* A contract with a performance incentive is one which incorporates an incentive to the contractor to surpass stated performance targets by providing for increases in profit or fee to the extent that such targets are surpassed, and decreases to the extent that such targets are not met. "Performance", as used in this paragraph refers not only to the performance of the article being procured, but to the performance of the contractor as well. Performance which is the minimum the Government will accept shall be mandatory under the terms of the Completion form contract and shall warrant only the minimum profit or fee related thereto. Performance which meets the stated targets will warrant the "target" profit or fee. Performance which surpasses these targets will be rewarded by additional profit or fee. When applied to the performance of the contractor, the incentive should relate to specific performance areas of milestones, such as delivery or test schedules, quality controls, maintenance requirements, and reliability standards.

216.403 [Amended]

22. Section 216.403 is amended by removing paragraph (c). Paragraph (c)(S-70) remains.

216.404-1 [Amended]

23. Section 216.404-1 is amended by removing the first sentence of paragraph (b).

216.404-2 [Amended]

24. Section 216.404-2 is amended by removing paragraph (a); by removing paragraph (b)(1)(S-71); by removing paragraph (b)(S-72)(i) and redesignating paragraphs (b)(S-72)(ii) and (b)(S-72)(iii) as paragraphs (b)(S-72)(i) and (b)(S-72)(ii), respectively; and by removing paragraph (c)(S-71).

25. Section 216.501 is amended by removing in paragraph (d) the second sentence; and by revising in paragraph (d) the last sentence to read as follows:

216.501 General.

(d) * * * The clause in FAR 52.213-1 shall be modified to apply only to delivery orders of less than \$25,000 if fast pay is desired.

216.601 [Removed]

26. Section 216.601 is removed.

216.603-2 [Amended]

27. Section 216.603-2 is amended by removing the first sentence of paragraph (c).

216.702 [Amended]

28. Section 216.702 is amended by removing paragraph (b); by adding in paragraph (b)(3) between the word "modification," and the word "revisions" the word "regulatory"; by removing in paragraph (b)(3) between the word "revisions" and the word "involving" the words "to FAR"; by removing the first sentence of paragraph (b)(S-70); and by removing paragraphs (b)(S-71) through (b)(S-74).

29. Section 216.703 is amended by removing paragraph (b) both paragraphs; by revising paragraph (c); by removing paragraph (c)(S-70) and marking the paragraph "[Reserved]"; and by adding in paragraph (c)(S-71) between the word "modifications," and the word "revisions" the word "regulatory"; and by removing in paragraph (c)(S-71) between the word "revisions" and the word "involving" the words "to FAR"; to read as follows:

216.703 Basic Ordering Agreements.

(c) *Limitations.* The clause in FAR 52.213-1 shall be modified to apply only to orders of less than \$25,000 when fast pay is desired on orders less than \$25,000.

(c)(S-70) [Reserved].

* * * * *

PART 220—LABOR SURPLUS AREA CONCERNS**220.7004 [Amended]**

30. Section 220.7004 is amended by adding in the last sentence of paragraph

(a)(2) a comma after the word "contractor" and substituting between the word "contractor" and the word "has" the words "including areas of suggested improvement and areas where the contractor" in lieu of the word "which"; and by substituting in the first sentence of paragraph (c)(2) between the word "by" and the word "above" the reference "(c)(1)" in lieu of the reference "(a)".

222.101-2 [Amended]

31. Section 222.101-2 is amended by removing paragraph (S-70).

222.609 [Removed]

32. Section 222.609 is removed.

222.1404 [Removed]

33. Section 222.1404 is removed.

Subpart 222.70—[Removed and Reserved]

34. Subpart 222.70 is removed and marked "Reserved".

Subpart 222.71—[Removed and Reserved]

35. Subpart 222.71 is removed and marked "Reserved".

PART 225—Foreign Acquisition**225.109 [Amended]**

36. Section 225.109 is amended by removing paragraph (a)(S-71); and by removing the text of paragraph (d)(S-71) and marking the paragraph "[Reserved]".

37. Section 225.702 is amended by adding paragraph (S-71) to read as follows:

225.702 Restrictions.

* * * * *

(S-71) See 209.170 for restrictions on contracting with firms owned or controlled by foreign governments that support terrorism.

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**236.402 [Amended]**

38. Section 236.402 is amended by removing paragraph (S-70)(1); by redesignating paragraph (S-70)(2) as paragraph (S-70)(1); by removing from the newly redesignated paragraph (S-70)(1) paragraph (iii); and by redesignating paragraph (S-70)(3) as paragraph (S-70)(2).

236.572-4 Removed and Reserved]

39. Section 236.572-4 is removed and reserved.

236.573-2 [Removed]

40. Section 236.573-2 is removed and reserved.

236.573-5 [Removed]

41. Section 236.573-5 is removed.

236.602-4 [Amended]

42. Section 236.602-4 is amended by removing from paragraph (c) the first two sentences; and by substituting at the beginning of the third sentence the word "A" in lieu of the words "However, the".

236.606 [Amended]

43. Section 236.606 is amended by removing the text of paragraph (S-70) and marking the paragraph "Reserved."

Subpart 236.71—[Removed]

44. Subpart 236.71 is removed.

PART 237—SERVICE CONTRACTING**237.104 [Amended]**

45. Section 237.104 is amended by removing paragraphs (S-70)(c), (S-70)(c)(1), (S-70)(c)(2), (S-70)(d), (S-70)(f), (S-70)(m), and (S-70)(n)(3); by substituting in the existing paragraph (S-70)(g)(3)(viii) the reference "FAR 37.106" in lieu of the reference "237.104(S-70)(f)"; by substituting at the end of the existing paragraph (S-70)(i)(1) the reference "237.104(S-70)(9)" in lieu of the reference "237.104(S-70)(1)"; by redesignating paragraphs (S-70)(a) through (S-70)(n) and paragraphs (S-71) (a) through (e) as follows:

Existing paragraph	Redesignation
(S-70)(a)	(S-70)(1)
(S-70)(b)	(S-70)(2)
(S-70)(b)(1)	(S-70)(2)(i)
(S-70)(b)(1) (i) and (ii)	(S-70)(2)(i) (A) and (B)
(S-70)(b)(2)	(S-70)(2)(ii)
(S-70)(e)	(S-70)(3)
(S-70)(e) (1) through (7)	(S-70)(3) (i) through (vii)
(S-70)(g)	(S-70)(4)
(S-70)(g) (1) through (3)	(S-70)(4) (i) through (iii)
(S-70)(g)(3) (i) and (ii)	(S-70)(4)(iii) (A) and (B)
(S-70)(g)(3)(iii) (A) through (F)	(S-70)(4)(iii)(B) (1) through (7)
(S-70)(g) (iii) through (ix)	(S-70)(4)(iii) (C) through (I)
(S-70) (h) and (i)	(S-70) (5) and (6)
(S-70)(i) (1) through (5)	(S-70)(6) (i) through (v)
(S-70)(j) and (S-70)(k)	(S-70)(7) and (S-70)(8)
(S-70)(k) (1) through (3)	(S-70)(8) (i) through (iii)
(S-70)(k)(3) (i) through (iv)	(S-70)(8)(iii) (A) through (D)
(S-70)(1)	(S-70)(9)
(S-70)(1) (1) and (2)	(S-70)(9) (i) and (ii)
(S-70)(n)	(S-70)(10)
(S-70)(n) (1) and (2)	(S-70)(10) (i) and (ii)
(S-71) (a) through (d)	(S-70) (1) through (4)
(S-71)(d) (1) through (3)	(S-70)(4) (i) through (iii)
(S-70)(e)	(S-70)(5).

237.205-71 [Amended]

46. Section 237.205-71 is amended by removing paragraphs (a)(1) through (a)(5) and redesignating the existing paragraphs (a)(6) and (a)(7) as paragraphs (a)(1) and (a)(2).

237.304 [Amended]

47. Section 237.304 is amended by removing paragraph (S-73).

PART 242—CONTRACT ADMINISTRATION**242.302 [Amended]**

48. Section 242.302 is amended by removing paragraph (S-73) and redesignating the existing paragraph (S-74) as paragraph (S-73). Paragraph (S-74) is marked reserved.

242.501 [Removed]

49. Section 242.501 is removed.

242.602 [Amended]

50. Section 242.602 is amended by removing the first paragraph in paragraph (a).

242.1203 [Amended]

51. Section 242.1203 is amended by removing the first sentence of paragraph (b)(1); and by substituting at the beginning of the existing third sentence the words "The notice" in lieu of the word "Notice".

PART 243—CONTRACT MODIFICATIONS**243.104 [Amended]**

52. Section 243.104 is amended by removing paragraph (a).

243.204 [Amended]

53. Section 243.204 is amended by removing the text of paragraph (S-72) and marking the paragraph "Reserved."

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES**244.305-2 [Removed]**

54. Section 244.305-2 is removed.

PART 246—QUALITY ASSURANCE**246.371 [Removed]**

55. Section 246.371 is removed.

PART 247—TRANSPORTATION**247.301-2 [Removed]**

56. Section 247.301-2 is removed.

PART 251—USE OF GOVERNMENT SOURCES BY CONTRACTORS**251.104 [Removed]**

57. Section 251.104 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**252.205-7000 [Adopted as Final]**

58. The interim rule published at 52 FR 12387 (April 16, 1987) is adopted as final without change.

59. Section 252.209-7000 is added to read as follows:

252.209-7000 Certification or Disclosure of Ownership or Control by a Foreign Government that Supports Terrorism.

As prescribed at 209.170-4, insert the following provision:

Certification or Disclosure of Ownership or Control by a Foreign Government That Supports Terrorism (Nov. 1987)

(a) "Significant interest" as used in this provision means—

(1) Ownership of or beneficial interest in five percent (5%) or more of the firm's or subsidiary's securities. Beneficial interest includes holding five percent (5%) or more of any class of the firm's securities in "nominee shares", "street names", or some other method of holding securities that does not disclose the beneficial owner;

(2) Holding a management position in the firm such as director or officer;

(3) Ability to control or influence the election, appointment, or tenure of directors or officers of the firm;

(4) Ownership of ten percent (10%) or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(5) Holding fifty percent (50%) or more of the indebtedness of a firm.

(b) Unless paragraph (c) below has been completed, the Offeror, by submission of its offer, certifies, to the best of its knowledge and belief, that no government of a foreign

country, or agent or instrumentality of a foreign country, listed below, has, directly or indirectly, a significant interest in the Offeror or, if the Offeror is a subsidiary, in the firm that owns or controls, directly or indirectly, the Offeror. Such countries currently include:

- (1) Cuba;
- (2) Iran;
- (3) Libya;
- (4) Syria; and
- (5) South Yemen.

(c) If the Offeror is unable to certify in accordance with (b) above, the Offeror represents that the following country or countries (listed in (b) above) or an agent or instrumentality of such country or countries, have a significant interest in the Offeror's firm:

Country _____
Significant Interest _____
(End of provision)

252.236-7007 [Removed and Reserved]

60. Section 252.236-7007 is removed and marked "Reserved."

252.270-7101 [Amended]

61. Section 252.270-7101 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(APR 1984)"; by adding in the first sentence of the clause between the word "input" and the word "media" the word "output"; changing in the first sentence of the clause "FIPS PUB 1-1" to read "FIPS PUB 1-2"; by changing in the first sentence of the clause "FIPS PUBS 2," to read "FIPS PUBS 2-1,"; by adding in the second sentence of the clause between the word "tape," and the word "and" the word "printers,"; by changing in the second sentence of the clause "FIPS PUB 1-1" to read "FIPS PUB 1-2"; and by changing in the second sentence of the clause "FIPS PUBS 2," to read "FIPS PUBS 2-1,".

252.270-7102 [Amended]

62. Section 252.270-7102 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(APR 1984)"; and by changing at the end of the text of the clause "FIPS PUBS 1-1 and 2" to read "FIPS PUBS 1-2 and 2-1."

252.270-7105 [Amended]

63. Section 252.270-7105 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(APR 1984)"; and by changing in the text of the clause "FIPS PUB 1-1" to read "FIPS PUB 1-2".

252.270-7106 [Amended]

64. Section 252.270-7106 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(APR 1984)"; by changing the first sentence of the clause "FIPS PUB 1-1" to read "FIPS PUB 1-2"; by changing in the first sentence of the clause "FIPS PUB 15" to read "FIPS PUB 1-2"; and by changing in

the second sentence of the clause "FIPS PUB 15" to read "FIPS PUB 1-2" in both places.

252.270-7114 [Amended]

65. Section 252.270-7114 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(APR 1984)"; and by changing the end of the text of the clause "FIPS PUB 35" to read "FIPS PUB 1-2".

252.270-7115 [Amended]

66. Section 252.270-7115 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(APR 1984)"; by changing in the first sentence of the clause "FIPS PUB 1-1" to read "FIPS PUB 1-2"; and by changing the first sentence of the clause "FIPS PUB 36" to read "FIPS PUB 1-2".

252.270-7119 [Amended]

67. Section 252.270-7119 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(APR 1984)"; and by changing in the text of the clause "FIPS PUBS 1-1" to read "FIPS PUBS 1-2".

252.270-7136 [Amended]

68. Section 252.270-7136 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(JUN 1984)"; and by changing in the first sentence of the clause "FIPS PUB 1-1 and FIPS PUB 35" to read "FIPS PUB 1-2".

252.270-7202 [Amended]

69. Section 252.270-7202 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(FEB 1983)"; and by changing in the text of the clause "FIPS PUB 1-1" to read "FIPS PUB 1-2".

252.270-7203 [Amended]

70. Section 252.270-7203 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(FEB 1983)"; and by changing in the text of the clause "FIPS PUB 1-1" to read "FIPS PUB 1-2".

252.270-7204 [Amended]

71. Section 252.270-7204 is amended by changing the date of the clause to read "(MAR 1987)" in lieu of "(FEB 1983)"; and by changing in the text of the clause "FIPS PUB 1-1" to read "FIPS PUB 1-2".

PART 270—ACQUISITION OF COMPUTER RESOURCES

270.306 [Amended]

72. Section 270.306 is amended by adding at the beginning of the listing following the introductory text in

paragraph (b) for number 7010-0001 between the acronym "ADPE" and the word "Configuration" the word "System"; by substituting in paragraph (b) in the listing for number 7035-0001 the word "Support" in lieu of the word "Accessorial"; and by substituting in paragraph (b) in the listing for number 7045-0002 the word "Supplies" for the words "Support Equipment".

270.322 [Amended]

73. Section 270.322 is amended by substituting in the second sentence of paragraph (c)(3) the words "Information Center (ATTN: DARIC-R)" in lieu of the words "Office (DARO)".

270.324 [Amended]

74. Section 270.324 is amended by substituting at the end of the address for the Defense Logistics Agency the zip code "22304-6100" in lieu of "22314".

270.607 [Amended]

75. Section 270.607 is amended by changing the title to read "Computer Equipment in the Possession of DoD Contractors." in lieu of the title "Reuse of Computers, Software, and Associated Spare Parts."; and by substituting in the first sentence the reference "Subpart 270.14" in lieu of the reference "Part 245".

270.1103 [Amended]

76. Section 270.1103 is amended by substituting at the end of paragraph (a)(6) "FIPS PUB 1-2" in lieu of "FIPS PUB 1-1"; and by substituting in paragraph (a)(15) "FIPS PUB 1-2" in lieu of "FIPS PUB 1-1".

270.1401 [Amended]

77. Section 270.1401 is amended by substituting at the end of paragraph (a) the word "Manual" in lieu of the word "Program".

Appendix A—Armed Services Board of Contract Appeals

78. Appendix A to Chapter 2 is amended by revising paragraph (a) of Section II of Part 2—Rules, to read as follows:

PART 2—RULES

* * * * *

II. Location and Organization of the Board

(a) The Board's address is Skyline Six, 5109 Leesburg Pike, 7th Floor, Falls Church, VA 22041, telephone (202) 756-8500 (receptionist), 756-8502 (recorder).

* * * * *

Appendix O—Cost Accounting Standards

79. Appendix O to Chapter 2 is removed.

[FR Doc. 88-22067 Filed 9-28-88; 8:45 am]
BILLING CODE 3810-01-M

48 CFR Parts 209, 216, 217, 225, 237, 252, and 253

[Defense Acquisition Circular (DAC) 86-10]

Department of Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).
ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-10 amends the DoD FAR Supplement (DFARS) with respect to restrictions on purchase of foreign-made administrative motor vehicles; Trade Agreements Act threshold; release of information to Cooperative Agreement Holders; acquisitions from other than required sources; contractor estimating systems; undefinitized contract actions; restrictions on employment of personnel (Alaska and Hawaii); restriction on sources for manual typewriters; prompt payment; deletion of DD Form 1665; editorial corrections; and provides information regarding dating of Defense Acquisition Circulars.

EFFECTIVE DATE: March 15, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD (P&L), c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-5.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Public Comments

Notices of proposed rules were published in the *Federal Register* requesting Government agencies, private firms, associations, and the general public to submit comments to be

considered in the formulation of the final rules.

DAC 86-10, Item I, II, and III

Public comments were not solicited with respect to these items because they provide informational material.

DAC 86-10, Item IV

An interim rule was published on April 16, 1987 (52 FR 12386) and solicited public comments. Only two such comments were received. The DAR Council has considered the comments and made a slight change in the clause to add "or offices" after "employees" in the first sentence of paragraph (b).

DAC 86-10, Items V, and VIII through XII

Public comments were not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures; or compelling reasons required issuance of an interim rule without prior publication for public comment. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88-610D.

DAC 86-10, Item VI

A proposed rule was published in the *Federal Register* on July 17, 1987 (52 FR 27019) and public comments were solicited.

DAC 86-10, Item VII

An interim rule was published in the *Federal Register* on April 16, 1987 (52 FR 12387) and public comments were solicited.

C. Regulatory Flexibility Act

DAC 86-10, Items I, II, and III

These items provide informational material; therefore the Regulatory Flexibility Act does not apply.

DAC 86-10, Item IV

This final rule to amend Subpart 205.4 and to add a new clause at 252.205-7000 will have a beneficial impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because small businesses will be furnished with points of contact who will provide them with information needed to obtain additional subcontracts. A Final Regulatory Flexibility Analysis has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. A copy

of the Final Regulatory Flexibility Analysis may be obtained from the individual listed above.

DAC 86-10, Items V, VI, VIII, IX, X, and XII

These revisions are not "significant revisions" as defined in FAR 1.501-1; i.e., they do not alter the substantive meaning of any coverage in the DFARS having a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations, solicitation of agency and public views on these revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

DAC 86-10, Item VII

The Department of Defense certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule is, in general, formal implementation of procedures already being practiced within DoD, and does not require additional recordkeeping. Moreover, the rule implements statutory requirements which do not provide exemptions for undefinitized contract actions with small business concerns. Finally, there were no public comments that addressed the Regulatory Flexibility Statement in the interim rule.

DAC 86-10, Item XI

The Department of Defense certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because contractors will still be required to provide this information on Standard Form 33 in lieu of the DD Form 1665.

D. Paperwork Reduction Act

DAC 86-10, Items I, II, and III

The Paperwork Reduction Act does not apply because these items provide informational material.

DAC 86-10, Item IV

The OMB has approved a paperwork burden of 16,250 hours under Account No. 0704-0286.

DAC 86-10, Items V, VII through X, and XII

The Paperwork Reduction Act does not apply because these final rules do not contain information collection

requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

DAC 86-10, Item VI

This final rule results in a reduction of 12,000 burden hours. A revised Paperwork Reduction Analysis has been submitted to OMB for their review.

DAC 86-10, Item XI

The Department of Defense estimates that the deletion of DD Form 1665 will reduce the burden under OMB Number 0704-0187 by 2,076,000 hours. Paperwork burden in the amount of 88,394,000 hours has been approved by OMB.

List of Subjects in 48 CFR Parts 209, 216, 217, 225, 237, 252, and 253

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition, Regulatory Council.

[Defense Acquisition Circular No. 86-10]
March 15, 1988.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective March 15, 1988.

Defense Acquisition Circular (DAC) 86-10 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Dating of Defense Acquisition Circulars

Beginning with this DAC, 86-10, dates will no longer appear on replacement pages of the looseleaf version of the DFARS. Only the DAC Number will appear on each replacement page to indicate a new, revised page (marginal lines will continue to indicate the location of actual revised coverage).

The date of the DAC will appear on the cover page of the DAC as well as on the Table of Contents and the pages listing the informational and introductory items. These explanatory pages should be filed for reference after the replacement pages are interleaved in the DFARS.

Item II—Restrictions on Purchase of Foreign-Made Administrative Motor Vehicles

The following is provided as guidance regarding the restrictions on purchase of foreign-made motor vehicles:

Section 823 of the DoD Authorization Act for fiscal years 1988 and 1989 (Pub. L. 100-180) provides:

(a) Vehicles For Use Inside The United States. Neither the Secretary of Defense nor the Secretary of a military department may

enter into a contract during the period beginning December 4, 1987, and ending September 30, 1989, for the procurement of administrative motor vehicles that are manufactured in a country other than the United States or Canada and are for use inside the United States unless the type of motor vehicle proposed to be procured is not available in sufficient and reasonably available quantities and satisfactory quality from manufacturer in the United States or Canada.

(b) Vehicles For Use Overseas. (1) Neither the Secretary of Defense nor the Secretary of a military department may enter into a contract during the period beginning December 4, 1987, and ending September 30, 1989, for the procurement of administrative motor vehicles that are manufactured in a country other than the United States (other than motor vehicles intended for use in security, intelligence, and criminal investigative operations) unless firms which manufacture similar vehicles in the United States or Canada are afforded a fair opportunity to compete for the contract.

(2) In awarding any contract subject to paragraph (1), the Secretary of Defense or the Secretary of the military department concerned may take into consideration the cost and availability of maintenance and other logistic services and supplies required for the operation of such vehicles.

(c) Exceptions. The restrictions in (a) and (b) above do not apply to the procurement of administrative motor vehicles in the case of a contract:

- (1) For an amount less than \$50,000; or
- (2) That is specifically authorized by law.

(d) Applicability. The restriction in (b) above does not apply in the case of a contract authorized or required to be entered into as provided under the terms of a country-to-country agreement for the support of United States Armed Forces in Europe if the agreement is in existence on December 4, 1987.

Item III—Trade Agreements Act Threshold

The United States Trade Representative has determined that the dollar threshold for determining whether purchases are subject to the Trade Agreements Act (see FAR Subpart 25.4) is \$156,000. This threshold is effective on February 16, 1988.

Item IV—Release of Information to Cooperative Agreement Holders

Item II, DAC #86-9, provided coverage in DFARS 205.470 and a clause at 252.205-7000 to implement section 957 of the Defense Acquisition Improvement Act (Pub. L. 99-500). This DAC revises DFARS 205.470 and 252.205-7000 to include the requirements of section 807 of the National Defense Authorization Act for fiscal years 1988 and 1989. The revisions include tribal organizations and Indian economic enterprises as entities eligible to enter into Cooperative Agreements with the Defense Logistics Agency. These

changes were published in a final rule on April 16, 1987, at 52 FR 12386.

Item V—Acquisitions From Other Than Required Sources

DFARS 208.470-2 and 208.7100-1 are revised to allow greater flexibility to use source other than the central supply system when such action is judged to be in the best interest of the Government in terms of the combination of quality, timeliness, and cost that best satisfies the requirement. The coverage increases the ability of buying activities to take advantage of local market conditions. These changes are effective February 1, 1988. A final rule was published in the Federal Register on January 25, 1988 (53 FR 1924).

Item VI—Contractor Estimating Systems

DFARS 215.811 and 242.302 are revised to (a) require that businesses which submit certified cost or pricing data to the DoD establish and maintain adequate estimating systems; (b) require certain large businesses to disclose their estimating systems in writing; (c) provide guidelines concerning characteristics of adequate estimating systems; and (d) provide guidance for conducting estimating system reviews by the Government. A related clause is added at 252.215-7003. A proposed rule was published in the Federal Register on July 17, 1987 (52 FR 27019) for public comment. In consideration of the comments received, changes were made to the proposed rule and a final rule was published on March 18, 1988 (53 FR 8906).

Item VII—Unfixed Contract Actions (UCAs)

A new DFARS Subpart 217.75 is added to implement section 908 of the 1987 DoD Authorization Act, Pub. L. 99-661, which requires that limitations be placed on the use of unfixed contract actions. This requirement is effective on all UCAs except for UCAs for Foreign Military Sales, purchases of less than \$25,000, special access programs, and congressionally-mandated long-lead procurement contracts. UCAs are limited to situations when a definitive contract cannot be issued in sufficient time, and contract performance must begin immediately. Limitations on the obligation of funds, on allowable profit, on definitization schedules and on the use of UCAs for non-urgent requirements are included in this new coverage. The clause at FAR 52.216-24, Limitation of Government Liability, shall be used to provide the limitations on obligations for UCAs. FAR clause 52.216-25, Contract

Definitization, shall be used to provide a schedule for definitization of contemplated UCAs. This new coverage is effective for UCAs identified above entered into on or after April 16, 1987, and all solicitations and contracts issued after April 16, 1987, contemplating the use of UCAs. Related changes are made to DFARS Parts 216, 217, and 243. An interim rule was published in the *Federal Register* on April 16, 1987 (52 FR 12387) and corrected on May 28, 1987 (52 FR 19872), June 25, 1987 (52 FR 23835), and September 3, 1987 (52 FR 33415).

Item VIII—Restrictions on Employment of Personnel (Alaska and Hawaii)

DFARS 222.7200 is revised to implement section 8046 of the FY 1988 Defense Appropriations Act which continues restrictions on employment of personnel in Alaska and Hawaii. A final rule was published in the *Federal Register* on March 1, 1988 (53 FR 6155).

Item IX—Restriction on Sources for Manual Typewriters

DFARS 225.7004 is revised to implement section 824 of the DoD Authorization Act for fiscal years 1988 and 1989 (Pub. L. 100-180), which requires a change to the restriction on procurement of manual typewriters from Warsaw countries.

Item X—Prompt Payment

When OMB Circular A-125 was initially issued in August 1982, the Federal agencies provided implementing instructions through their individual procurement regulations. These regulations were later superseded by the FAR in April 1984. Because the FAR did not specifically include coverage on OMB Circular A-125, the Federal agencies continued to provide implementing instructions through their respective FAR Supplements. Later, as problems surfaced and amendments were issued to OMB Circular A-125, it became increasingly necessary to establish uniform coverage in the FAR.

A proposed rule for FAR Subpart 32.9 was published for public comment in the *Federal Register* on July 17, 1986. Subsequent to that publication, a number of events occurred that were pertinent to the policies and procedures being proposed. The Senate introduced a legislative initiative to amend the Prompt Payment Act. The House of Representatives Committee on Government Operations issued a report entitled "Prompt Payment Act Implementation: Improvements Needed." The General Accounting Office issued a report entitled "Prompt Payment Act—Agencies Have Not Fully

Achieved Available Benefits."

Therefore, a revised proposed rule was published for public comment in the *Federal Register* on March 18, 1987 (52 FR 8576). In developing the final rule, the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council not only took the public comments into consideration, but they also considered revisions that had been made to OMB Circular A-125 on June 9, 1987.

This DAC includes revisions to DFARS 232.1, adds a new Subpart 232.9, and deletes the clause at 252.232-7000. A final rule was published in the *Federal Register* on February 9, 1988 (53 FR 3751).

Item XI—Deletion of DD Form 1665

DFARS Part 253 is revised by deleting the DD Form 1665 which has been used for solicitations outside the United States, its possessions and Puerto Rico. Since the SF 33 may also be used for such solicitations (see FAC 84-25, Item VIII), the DD Form is no longer needed. With few exceptions, the solicitation provisions printed on DD Form 1665 are the same as those prescribed for use with the SF 33. Solicitation provisions that needed to be revised so that they could be used in overseas solicitations were published in FAC 84-25, Item VIII.

Item XII—Editorial Corrections

Editorial corrections are made as follows:

209.470(c)—To reflect correct designation for the Air Force.

216.502 and 216.503—To reinstate coverage which was deleted in error (Item VII, DAC #86-9).

237.7409(e)—To reflect correct FAR reference.

252.270-7006—To reflect correct referenced clause in paragraph (a) of the clause.

253.2-1—To reverse order of 253.270 and 253.204-70.

Adoption of Amendments

Therefore, the DOD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 209, 216, 217, 225, 237, 252, and 253 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 209—CONTRACTOR QUALIFICATIONS

209.470 [Amended]

2. Section 209.470 is amended by substituting in paragraph (c) the words "Assistant Secretary (Acquisition Management and Policy)" in lieu of the

words "Chief of Staff, Research, Development and Acquisition".

PART 216—TYPES OF CONTRACTS

3. Sections 216.502 and 216.503 are revised to read as follows:

216.502 Definite quantity contracts.

(S-70) Advantages of this type of contract are that it permits stocks in storage depots to be maintained at minimum levels and permits direct shipment to the user. Further advantages of this type of contract are:

(1) Flexibility with respect to both quantities and delivery scheduling;

(2) Supplies or services need to be ordered only after actual needs have materialized;

(3) The obligation of the Government is limited; and

(4) It permits stocks to be maintained at minimum levels and allows direct shipment to the user.

216.503 Requirement contracts.

(S-70) Advantages of this type of contract are:

(1) Flexibility with respect to both quantities and delivery scheduling;

(2) Supplies or services need to be ordered only after actual needs have materialized;

(3) When production lead time is involved, deliveries may be made more promptly because the contractor is usually willing to maintain limited stocks in view of the Government's commitment;

(4) Price advantages or savings may be realized through combining several anticipated requirements into one quantity procurement; and

(5) It permits stocks to be maintained at minimum levels and allows direct shipment to the user.

PART 216—[ADOPTED AS FINAL]

4. The interim rule published at 52 FR 12387 (April 16, 1987) and corrected at 52 FR 19872 (May 28, 1987), 52 FR 23835 (June 25, 1987), and 52 FR 33415 (September 3, 1987) is adopted as final without change.

PART 217—[ADOPTED AS FINAL]

5. The interim rule published at 52 FR 12387 (April 16, 1987) and corrected at 52 FR 19872 (May 28, 1987), 52 FR 23835 (June 25, 1987), and 52 FR 33415 (September 3, 1987) is adopted as final without change.

PART 225—FOREIGN ACQUISITION

6. Section 225.7004 is revised to read as follows:

225.7004 Restriction on sources for manual typewriters.

10 U.S.C., section 2400(c) provides that funds appropriated to or for the use of the Department of Defense may not be used for the procurement of manual typewriters which contain one or more components manufactured in a country which is a member of the Warsaw Pact unless the products of that country are accorded nondiscriminatory treatment (most favored nation treatment).

PART 237—SERVICE CONTRACTING**237.7409 [Amended]**

7. Section 237.7409 is amended by substituting in the last sentence of paragraph (e) the reference "FAR 32.702" in lieu of the reference "FAR 32.702-2".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**252.270-7006 [Amended]**

8. Section 252.270-7006 is amended by changing in paragraph (a) of the clause the reference "252.270-7006" to read "252.270-7007".

PART 253—FORMS

9. The list of forms following section 253.270 is amended by removing the listing "253.303-70-DD-1665: Solicitation, Offer, and Award (Overseas)".

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48 CFR Parts 206, 208, 215, 225, 252, and Appendix T

[Defense Acquisition Circular (DAC) 86-11]

Department of Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-11 amends the DoD FAR Supplement (DFARS) with respect to contractor estimating systems; procurement of mooring chain; noncompetitive awards for studies, analyses, and consulting services resulting from unsolicited proposals; list of excluded items of Defense equipment; thresholds for field pricing reports; Appropriations Act restrictions (aircraft ejection seats and chemical weapons antidote); safety precautions for ammunition and explosives; and International Agreements—Appendix T.

EFFECTIVE DATE: March 31, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:**A. Background**

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 85-5.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Public Comments

Notices of proposed rules were published in the *Federal Register* requesting Government agencies, private firms, associations, and the general public to submit comments to be considered in the formulation of the final rules.

DAC 86-11, Items I, II, and III

Public comments were not solicited with respect to these items because they provide informational material.

DAC 86-11, Items IV Through VII

Public comments were not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures; or compelling reasons required issuance of an interim rule without prior publication for public comment. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88-610D.

DAC 86-11, Item VIII

Public comments were not solicited with respect to this item because it contains a reprint of international agreements between the United States and foreign countries.

C. Regulatory Flexibility Act**DAC 86-11, Items I, II, and III**

These items contain informational material; therefore the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

DAC 86-11, Items IV, V, and VII

These revisions are not "significant revisions" as defined in FAR 1.501-1; i.e., they do not alter the substantive meaning of any coverage in the DFARS having a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations, solicitation of agency and public views on these revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

DAC 86-11, Item VI

These changes implement section 8054 of the Department of Defense Appropriations Act, 1988 (Pub. L. 100-202) and section 124 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Pub. L. 100-180). There are no known small entities who manufacture aircraft ejection seats, and therefore this change is not expected to impact small entities. There is only one known domestic supplier of the chemical weapons antidote described, and this provision will not have a negative impact on that organization. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88-610D.

DAC 86-11, Item VIII

This item contains a reprint of international agreements between the United States and foreign countries. Since solicitation of comments is not required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

C. Paperwork Reduction Act**DAC 86-11, Item I Through III**

The Paperwork Reduction Act does not apply because these items contain informational material.

DAC 86-11, Item IV Through VII

The Paperwork Reduction Act does not apply because these final rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

DAC 86-11, Item VIII

The Paperwork Reduction Act does not apply because this item contains a reprint of international agreements between the United States and foreign countries.

List of Subjects in 48 CFR Parts 206, 208, 215, 225, 252, and Appendix T

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[Defense Acquisition Circular No. 86-11]

March 31, 1988.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective March 31, 1988.

Defense Acquisition Circular (DAC) 86-11 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Contractor Estimating Systems—Effective Date

DAC #86-10, Item VI, provided revised coverage to DFARS 215.811 and 242.302, and a new clause at 252.215-7003 with respect to contractor estimating systems; however, the effective date was not included in the DAC introductory item. The coverage is effective March 18, 1988.

Item II—Procurement of Mooring Chain

The DAR Council, at its meeting of February 11, 1988, approved the following guidance for procurement of mooring chain with fiscal year 1988 appropriated funds.

(a) None of the fiscal year 1988 funds shall be used to procure mooring chain of all types, four inches or less in diameter, if such chain is manufactured outside of the United States, its territories or possessions, or Canada, except as provided in (b) below.

(b) When adequate supplies of mooring chain described in (a) above are not available from the United States, its territories or possessions, or Canada, to meet DoD requirements on a timely basis, then such mooring chain may be procured from other countries on a case-by-case basis as determined by the Secretary of the Service concerned, or designee.

Item III—Noncompetitive Awards for Studies, Analyses, and Consulting Services Resulting From Unsolicited Proposals

DFARS 206.302-1(a)(S-70) is added and DFARS 215.507 is revised to implement the requirements of section 8029 of Pub. L. 100-180. The revisions clarify the conditions under which DoD can award contracts for studies, analyses, and consulting services on a

sole source basis, resulting from an unsolicited proposal.

Item IV—List of Excluded Items of Defense Equipment

DFARS 208.7802-1 is revised to update the list of DoD forging and welded shipboard anchor chain items that must be acquired from domestic sources. DFARS 225.7405 is revised to update the list of DoD items restricted to domestic sources and excluded from MOU and Offset Agreements. The changes will serve to inform contracting officers and other interested parties of items which are excepted from full and open competition in order to maintain a facility, producer, manufacturer or other supplier available for furnishing supplies or services in cases of a national emergency or to achieve industrial mobilization.

Item V—Thresholds for Field Pricing Reports

DFARS 215.805-5 is revised to increase the thresholds for field pricing support from \$100,000 to \$250,000 for firm fixed price and fixed price incentive type contracts to \$500,000 for all fixed price contracts, and for cost type contracts from \$500,000 to \$1 million, except for contractors with significant estimating system deficiencies. Additionally, this requirement may be waived at the contracting officer level. The above-described change formalizes and cancels paragraph 1(c) of the Assistant Secretary of Defense (Production and Logistics) memorandum dated June 4, 1987, to the Military Departments and Defense Logistics Agency, entitled "Issuance of Class Deviations to the FAR/DFARS".

Item VI—Appropriations Act Restrictions (Aircraft Ejection Seats and Chemical Weapons Antidote)

DFARS 225.7000 is revised, and 225.7009 and 225.7010 are added to provide coverage which prohibits the purchase of (a) certain aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation, and (b) chemical weapons antidote contained in automatic injectors, unless certain conditions are met.

Item VII—Safety Precautions for Ammunition and Explosives

The clause at DFARS 252.223-7001 is revised to change the word "accident" to read "mishap", and to provide clarification regarding the contractor's obligation to ensure subcontractor compliance with contractual safety

requirements and the purpose of Government safety surveys of subcontractor facilities.

Item VIII—International Agreements—Appendix T

Changes are made to Appendix T as follows:

(a) The US-Israeli Memorandum of Agreement, currently in Appendix T (T-301) is replaced by a recently signed Memorandum of Understanding which will appear in T-214. DFARS 225.7401 and 225.7501 are revised to reflect this action.

(b) Quality Assurance Annex III, "Reciprocal Quality Assurance Services Under the Memorandum of Understanding Between the United States and The Government of Norway, Regarding Defense R&D, Production, and Procurement," is added to T-203.

(c) Appendix I to the Audit Annex with the Federal Republic of Germany and the Contract Administration Annex to the MOU with the Federal Republic of Germany are added.

(d) Annex IV to the MOU between the USA and Italy concerning mutual cooperation in defense equipment, research and development, production and procurement, is added.

(e) The MOU between the USA and Sweden is added in Part 4 of Appendix T.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 206, 208, 215, 225, 252, and Appendix T continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 206—COMPETITION REQUIREMENTS

2. Section 206.302-1 is amended by adding paragraph (a)(S-70) to read as follows:

206.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(a)(S-70) Contracts for studies, analyses, or consulting services (see FAR 37.2) shall not be entered into without competition on the basis of an unsolicited proposal unless the head of the contracting activity, or a designee not lower than the chief of the contracting office, determines that:

(1) As a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work; or

(2) The purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) The purpose of the contract is to take advantage of a unique and significant industrial accomplishment by a specific concern, or to ensure that a new product or idea of a specific concern is given financial support when it benefits defense. This limitation shall not apply to contracts in amounts of less than \$25,000, contracts related to improvement of equipment that is in development or production, or contracts as to which a civilian official of the DoD, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

PART 208—[Amended]

3. Section 208.7802-1 is amended by substituting in the first item in the list the words, in parentheses, "(excluding service and landing craft shafts)" in lieu of the words "greater than 50 feet in length"; by removing the item in the list "Breach block forgings"; by removing the item in the list "Sprockets"; by revising and moving to the beginning of the list the penultimate item in the list; and by removing the last item in the list as follows:

208.7802-1 List of DoD forging and welded shipboard anchor chain items that must be acquired from domestic sources (United States and Canada).

Shipboard Forged DiLok and Welded Anchor Chain (smaller than four inches in diameter)

PART 215—CONTRACTING BY NEGOTIATION

4. Section 215.507 is amended by revising paragraph (b)(S-70) to read as follows:

215.507 Contracting methods.

(b)(S-70) Contracts for studies, analyses, or consulting services (see FAR 37.2) may be entered into on the basis of an unsolicited proposal as provided for in 206.302-1(a)(S-70).

5. Section 215.805-5 is amended by revising the first two sentences of paragraph (a)(1); by adding a third sentence to paragraph (a)(1); and by removing paragraph (a)(S-70) to read as follows:

215.805-5 Field pricing support.

(a)(1) Contracting officers shall request field pricing reports for contracts and modifications resulting from a proposal in excess of \$500,000 for a fixed-price type contract and \$1 million for a cost type contract. The requirement for subject reports may be waived, with adequate written justification by the contracting officer. However, if the contracting officer becomes aware that the cognizant administrative contracting officer has found a significant deficiency in the contractor's estimating system and has instructed the contractor to correct the deficiency, field pricing reports shall be requested for fixed-price proposals in excess of \$250,000 and cost type proposals in excess of \$500,000.

* * * * *

PART 225—FOREIGN ACQUISITION

6. Section 225.7000 is amended by removing in the third sentence after the parenthetical reference "(see 225.7004)," the word "and"; and by changing the period at the end of the third sentence to a comma and adding the words "the restriction on the acquisition of aircraft ejection seats from any foreign nation that does not permit United States manufacturers to compete for ejection seat procurements in that foreign nation (see 225.7009), and the restriction on the acquisition of certain chemical weapons antidote (see 225.7010)."

7. Sections 225.7009, and 225.7010 are added to read as follows:

225.7009 Restriction on the acquisition of aircraft ejection seats.

Pub. L. 98-212 and subsequent Appropriations Acts provide that no funds appropriated for the Department of Defense may be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

225.7010 Restriction on procurement of certain chemical weapons antidote.

10 U.S.C. 2400(b) provides that funds appropriated to the Department of Defense may not be used for the procurement of chemical weapons antidote contained in automatic injectors (or for the procurement of the components for such injectors) determined to be critical under the Industrial Preparedness Planning

Program of the Department of Defense unless the following conditions are met:

(a) Such injector or component is manufactured in the United States by a company which is an existing producer under the Industrial Preparedness Program at the time the contract is awarded and which has—

(1) Received all required regulatory approvals; and

(2) Has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded; or

(b) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, determines that such procurement from a source in addition to a source described in paragraph (a) is critical to the national security.

225.7401 [Amended]

8. Section 225.7401 is amended by adding in the first sentence between the word "Luxembourg," and the word "and" the words "the Government of Israel,".

9. Section 225.7405 is revised to read as follows:

225.7405 List of excluded items.

The policies and procedures of this subpart do not apply to offers of the following items of defense equipment unless the quantity being acquired is greater than that required to maintain the U.S. defense mobilization base. This restriction does not apply to Canadian Planned Producers. This is a representative list and changes may occur at the discretion of the applicable Agency or Service. Individual solicitations should be reviewed to determine whether this restriction has been applied. Information concerning this list may be obtained from OASD(P&L), Office of Industrial Base Assessment. (See also 208.73, 208.74, 208.75, 208.76 and 208.78.)

Army

L.A.P.

Manufacturing and testing of projectiles (5.56 through 8 inch), mines, dispensers, rockets, pyrotechnic devices, grenades, demolition charges, small arms ammunition and components.

Maintenance of idle portions of 22 GOCO facilities.

Air Inflatable Retarders

BSU-49/B, BSU-50/B

Black Powder

Classes 2, 3,
3 LOMO, 7, and 7 C PK

Bomb Bodies

MK82, M83, MK84, MK118-0, BDU-45/B,
BDU-50/B

Bomb Fins

MK118-0

Bomb Practice

BDU-33D/B

Bomblet

MK11

Box, Metal

M2A1, M19A1, M548

Box, Plastic

M621 (25mm)

Cable Assemblies

M72, M73

Cartridges

50 cal—all types

5.56mm/7.62mm-M855 (Ball)

20mm-M55A2, M56A4

25mm—M791, M792, M793, MK210, PGU-20,

PGU-23, PGU-25, HEI-T

30mm—GAU-8/A (PGU-15, 5 API/1) M788,

M789, PGU-13/B, 14/B, 15/B

40mm—M811 (HEI-PD), M813 (TP)

Tank—MK11-0, MK14-3

Impulse—M206, M796

Misc—MK4-3 Bomb Sig PB, CXU-3 Cold

Smoke, Body Assy. M430

81mm—M301A3, M821, M853, M889

105mm—M774, M833, M456A2, M490A1,

M724A1

4.2in—M329A2

120mm—M829, M830, M831, M865

Misc—Signal MK4-3

Cartridge Cases

40mm—M118, M169, M433, M813

76mm—Steel

105mm—M148A1B1, M115B1

5"/38—MK10-1

5"/54—MK79-1

Casings, Burst

81mm—M158

4.2"—M14

Castings & Forgings

Gun Tube & Preforms Forgings (105mm—

M2A2, M68A1, M137A1; 120mm—M256;

155mm—M1A2, M185, M199; 165mm—

M135; 8"—M201A1

Breech Ring Forgings (105mm—M2A2,

M68A1, M137A1; 120mm—M256; 155mm—

M1A2, M185, M199; 165mm—M135;

175mm—M113A1; 8" Howitzer—M201)

Breech Block Forgings (120mm—M256)

Cast Muzzle Brakes (155mm—M185, M199;

8"—M201A1)

Housing Castings (155mm—M185, M199)

Hoop Castings (8"—M201A1)

Charge, Demo

M24, MK75-0, MK138-1 (Chrg. Assy), 40lb.

Cratering, 1511b. Cratering, M118 Demo

Block

Containers, Ammo

CNU-238/E, CNU-319/E, CNU-327/E, CNU-

332, CNU-335A/E, CNU-336A/E, M621,

ALS, M205

Dispenser

MK7-3, (ROCKEYE), MK-4 (ROCKEYE)

Electronic Lens Assy

RAAM, GEMSS, GATOR

*FASCAM Mine Components*GATOR Body Assy, GEMSS Body Assy,
GATOR Extended Range Tripline Sensor,
GEMSS Extended Range Tripline Sensor,
FASCAM Battery, ADAM Housing, Timing,
& Fuzing Assy, RAAM Safe & Arming
Device, GEMSS Safe & Arming Device,
GATOR Safe & Arming Device*Fin Assemblies*60mm Steel, M27 (60mm Aluminum), M24
(81mm), BSU-86, MK15-4, MK84*Firing Devices*

M142 DEMO

*Flares*LUU-2/B, M206, MJU-2B, MJU-7B, MJU-8B,
MJU-10B, MK46-1C, SUU-25 F/A*Fuzes*FMU-130/B, FMU-139/A, FMU-139/B, M60,
M201A1, M213, M223, M228, M230, M403,
M423, M427, M439, M505A3, M509A2,
M549, M550, M557A1, M567, M582A1,
M700, M732A1, M734, M739, M758, M761,
M766, M935, M936, MK1-0, MK54, MK71-
15, MK72-17, MK73-13, MK339-1, MK342-1,
MK393-0, MK395, MK396, MK403, MK404-
0, MK407-1, MK417-0, MK418, FMU-139A*Fuze Components*PS-115 Power Supply, MK45 Aux. Det.,
MK379 Aux. Det., MK384 Aux. Det., MK396
Aux. Det.*Guns & Receivers*M2 Machine Gun, M60/M60D Machine Guns,
M240 Machine Gun, 25mm Automatic*Grenades*M42E2 (155mm), M46E1 (155mm), M483
(155mm), M42E2 (8"), M46E1 (8"), M509 (8"
MLRS), XM77 Body*Grenades, Sub-Munitions*

Cones F/M42E2, M46E1, M77

Launchers

M203 (40mm)

*Liners*M430 (40mm), NM433 (40mm w/cap), I-TOW,
II-TOW*Links*M9 (50 CAL), M15A2 (50 CAL), M22, M27
(5.56mm), M13 (7.62mm), M10 (20mm),
M14A2 (20mm), M103 (20mm), M16A2
(40mm), M430 (40mm)*Periscopes/Vision Blocks*M17, M27, M37, M45, 15 Degree Up-Look, 20
Degree Up-Look, Periscope F/Tank
Commander Long and Short*Plugs*

MK11-1, MK12-3

*Primers*MK41-0 Percussion, MK45-1 Electric, MK153
Electric, MK161, MK28B2*Projectiles*

20mm—M56, M221

40mm—M430, M433, M822 (HE-PFPX)

60mm—720,

81mm—M374A3

105mm—M456A2 (HEAT), M737, M833

155mm—M483, M483A1, M692, M712

(COPPERHEAD), M718, M731, M741

4.2"—M328A1, M329EA, M335A2

5"/54—MK48-1, MK61-0, MK64-1, MK82 (AF

& Fwd)

8"—M509, M509A1 ICM

Projectile Components

76mm—Body

105mm—Spike Assy. (M456A2, Spike & Cap
Assy. (M456A2), Cone (M456A2), Core
(M833), M737 (TP)155mm—Copper Cone (M483), Motor Body
Bonding Assy (M459)

8"—Copper Cone (M509)

MLRS—Copper Cone

Projectiles/Shell Metal Parts

20mm—MK68, M55A2

120mm—Projectile Assy, Core F/M829

155mm—M107, M549, M864

8.0in—M106, M650

Probe

I-TOW, II-TOW

*Propellants/Explosives (or Equal)*COMP D-2, HPC-2, HPC 13 M200 BIK LK,
1030 M813 (40mm), 1100, PBX-9501, WC-
814, WC-818, WC-844, WC-844T, WC-844
REFER, WC-846, WC-860, WC-872, WC-
875, COMP D-2, HMX Bulk, RDX Bulk*Reserve Energizers*

MK38-0, M40-0, MK43-0

Rifle

M16A2

Rockets

M73 (35mm)

Rocket motors

MK25-1, MK40-4 (2.75), M650 (8")

*Rocket Motor Tubes*MK40-4 (2.75), MK66 (2.75), ZUNI w/contact
band*Rocket Fin & Nozzle Assy*

MK40-4, MK66

Safe and Arming Devices

M114, M739 (fuze)

Signals

Personal Distress Kit

*Single Channel Ground/Air Radio System
(SINCGARS)*AN/PRC-119, AN/VRC-87, AN/VRC-88,
AN/VRC-89, AN/VRC-90, AN/VRC-91,
AN/VRC-92, AN/VRC-201*Suspension Lugs*

MK3, MK-14-0, MS3314

Warheads

20mm—M156

155mm—M549

8"—M650

TOW—M207E1 (BODY), M207E2 (BODY)

MISC—WTU 1/B, M261, M151

TOW Missile
TOW Night Sight
Pershing II
Hawk
AAWS-M
Patriot
Patriot Missile Canisters
Hellfire
Stinger
Chapparal
Camouflage Screening Systems
BA-5598, BA-5567, BA-5590
MK-9644
Radar Warning Receiver, AN/APR-39A(V)1
Inertia Navigation Set, AN/ASN-86
Night Vision Goggles, AN/PVS-5
Aviators NV Imaging System, AN/AVS-6
Image Intensifier Assy, MX-10160
Individual Served Weapon Night Vision Sight, AN/PVS-4
Crew Served Weapon Night Vision Sight, AN/TVS-5
Drivers Viewer, AN/VVS-2
Night Vision Goggles, Monocular
Radar Signal Detecting Set, AN/APR-39A(V)2
Artillery Locating Radar, AN/TPQ-37(V)4
Road Wheels for Combat and Combat Support Vehicles
Rough Terrain Container Crane
HEMTT (Heavy Expanded Mobility Tac. Truck)
M939A1 5 Ton Trucks
M60A3 Tank
M1A1 Tank
TADS/PNVS
Hover Infrared Suppressor Systems
Mast Mounted Sight for Ship
Atr to Air Stinger
AH-64
AN/TPQ 36
Battery, Storage, 4HN, 6TN

Navy

Missile and Missile Components

AIM/RIM-7M SPARROW Missile—Guidance Control Section with Wings and Fins, MK-58 Rocket Motor, MK-33 MOD 0 Safe and Arm Device, WEU/3B Empty Warhead Assembly;
AIM 54C PHOENIX Missile—WPU-3/B Propulsion Section (with MK-47 MOD 1 Rocket Motor and FSU-10/A Composite Fuze), DSU-28C/B Target Detecting Device, MK-13 MOD 0 Fuze Triggering Device, WDU-29/B Warhead, MK-60 MOD 2 Fuze Booster;
AIM-9M Sidewinder Missile—WGU-4A/B Guidance and Control Section, MK-36 MOD 11 Reduced Smoke Rocket Motor, WDU-17/B Loaded Warhead, DSU-15A/B or B/B Active Optical Target Detector, MK-13 MOD 2 Safe and Arm Device, MK-1 MOD 2 Wing Assembly, BSU32/B Fin Assembly;
Tomahawk Cruise Missile—including Guidance Section, F-107 Engine (including spares), Reference Measuring Unit and Computer (including spares), Missile Radar Altimeter (including spares), MK-106 MOD 0 Rocket Motor and EX-111 IRM (including spares); Digital Scene Matching Area Correlation (DSMAC),
Trident II, MK-6 Guidance and Components, Inertial Measurement Unit (IMU), IMU

Electronics, Electronics Assemblies, Camera Detector Assembly;
Tactical Rocket Motors and Inert Rocket Motors for High Speed Anti-Radiation Missile (HARM);
Standard Missile Two Block II Guidance, Control and Autopilot/Battery Sections and all-up-rounds for Aegis, Terrier and Tartar Class Ships;
Standard Missile II MK-45 MOD8 Target Detection Device, MK-70 Booster, MK-104 Dual Thrust Rocket Motor, MK-115 Warhead, MK-70 Inert Parts; and
Standard Missile Two Block II A Vertical Launch Configuration

Avionics

AN/AYK-14(V) Computers

Surface Ship and Submarine Systems:

Type 18B/D Periscope System, TR-155, K-33 Transducers, Periscope Tubes, Noise Tested Bearings
MK-45 Mod 1 Gun Mounts; MK-6 Ammunition Hoists; MK-41 Vertical Launch System; Phalanx CIWS MK-15 Block 1 Weapon Systems and Block 1 ORDAIT kits
AWS T-1348/SPG Radar (CWI) Transmitter Ship Propulsion Shafts, Ring Forging for Bull Gears greater than 120 inches in diameter, Anchor Chains

Engines

F404-GE-400D Engines

Guns

MK19 MOD 3 Machine Gun and MK 64 Gun Mounts

Sonobuoys

AN/SSQ-36, AN/SSQ-53B, AN/SSQ-53D, AN/SSQ-62B, AN/SSQ-77A, AN/SSQ-XX
Low Cost Sonobuoys

Standard Missile

MK-51 MOD 0 Safety Arming Device
MK-76 MOD 0 Safety Arming Device

Air Force

MAC Commercial Airlift

Defense Logistics Agency

Aviator's Helmet (SPH-4)
Chemical Protective Suits (Army)
Chemical Protective (BUTYL) Gloves
Cold Weather Boots
Combat Vehicle Crewman's Helmet
Meal, Ready-to-Eat (MRE)
Nerve Agent Antidotes
Surgical and Dental Instruments
Tetracycline Hydrochloride Capsules

225.7501 [Amended]

10. Section 225.7501 is amended by substituting in the first sentence the words "Government of Egypt" in lieu of the words "Governments of Israel and Egypt".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.223-7001 [Amended]

11. Section 252.223-7001 is amended by changing the date of the clause to

read "(MAR 1988)" in lieu of "(JUL 1986)"; by substituting in the first sentence of paragraph (e) of the clause the words "a mishap" in lieu of the words "an accident"; by substituting in the second sentence of paragraph (e) of the clause the word "mishap" in lieu of the word "accident"; and by adding at the end of paragraph (g) of the clause the following: "The Contractor is contractually responsible for ensuring subcontractor compliance with all contract safety requirements and will determine the method by which the adequacy of this compliance is verified. Government safety surveys of subcontractor facilities are performed in order to prevent the occurrence of any mishap which would endanger the safety of DoD personnel or otherwise adversely impact upon the Government's contractual interests."

Appendix T to Chapter 2 [Amended]

12. Appendix T is amended by adding in the Table of Contents under Part 2 following "T-213" the entry "T-214 Israel Memorandum of Understanding"; by removing in the Table of Contents under Part 3 in the entry for T-301 the words "Israel Memorandum of Agreement" and marking the section "Reserved"; by adding to the Table of Contents Part 4 to read:

Part 4—Other Memoranda of Understanding
T-400 Reserved.
T-401 Sweden Memorandum of Understanding

by adding to Part 2, to the end of section T-203, "Norway Memorandum of Understanding" (T-204) "Annex III, Reciprocal Quality Assurance Services Under the Memorandum of Understanding Between the United States and the Government of Norway Regarding Defense R&D, Production, and Procurement"; by adding to Part 2, to the end of section T-205 Federal Republic of Germany Memorandum of Understanding, "Annex 5, Memorandum of Understanding Between the Government of the Federal Republic of Germany and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research and Development, Production, Procurement and Logistic Support of Defense Equipment Dated 17 October 1978"; by adding to Part 2, to the end of section T-206 Italy Memorandum of Understanding, Annex IV to the MOU between the USA and Italy; by adding to Part 2, "T-214 Israel Memorandum of Understanding; by amending Part 3 by removing section T-301 and marking the section "Reserved."; and by adding Part

4, consisting of Sections T-400, marked "Reserved.", and T-401, to read "Sweden Memorandum of Understanding"; to read as follows:

Appendix T—[Amended]

* * * * *

Part 2—[Amended]

T-203 Norway Memorandum of Understanding

* * * * *

Annex III—Reciprocal Quality Assurance Services Under the Memorandum of Understanding Between the United States and the Government of Norway Regarding Defense R&D, Production, and Procurement

I. Preamble

This annex sets forth the terms, conditions and procedures under which the participating governments shall provide one another with quality assurance services in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). The procedures of STANAG 4107 and AQAP 10 shall apply as supplemented by this annex to the extent consistent with the laws of both governments.

If special quality assurance arrangements are made for international cooperative projects in which the United States and Norway participate, those special arrangements shall have precedence over this annex. Purchases by Norway under the Foreign Military Sales (FMS) Program will be handled under U.S. FMS procedures in existence at the time of acceptance of the FMS agreement. Normally, FMS purchases will be afforded the same quality assurance that is provided for similar DoD procurements for use by the U.S. DoD. Similar provisions will apply, to be changed, if necessary, to U.S. Government purchases from the Norwegian Government.

The objective of this annex is to insure each participating government is able to employ the most effective and efficient quality assurance support possible when acting under this MOU. Nothing is to be construed as impairing a purchasing government's access to its contractors and their records as may be contractually authorized.

II. General

A flexible arrangement is envisioned under which a purchasing government may, on a case-by-case basis, request full quality assurance support as described in AQAP-10 or, alternatively, request specified services listed in AQAP 10 as it considers appropriate to the circumstances, for the purchase of defense items made outside of government-to-government channels. The purchasing government may elect to perform other necessary services through its own on-site representative and will inform the host government in such cases, in order to avoid duplication of the work performed by the host government. The purchasing government may modify a request for support during contract performance after consultation with the host government.

The participating governments shall accept requests for services to the extent resources are available and carry them out according to the procedures each government uses for its own contracts.

Contracts shall contain suitable provisions for the host governments to act for and on behalf of the purchasing government and shall authorize assets as necessary for the performance of quality assurance service, and include the appropriate contractual quality requirement imposed on the contractor, if applicable.

Where representatives of both participating governments deal with a contractor at the same location in support of the same or separate contracts, they shall operate in full concert according to terms of reference mutually agreed or to be agreed upon.

The participating governments shall each designate a single office to receive requests for quality assurance services. This office shall arrange for the required services to be performed by the appropriate national organization. In addition, each participating government may elect to designate an office in or near the other participating country to act as focal point through which requests for quality assurance will be forwarded. The host government will endeavor to keep the purchasing Government's focal point apprised of current quality assurance practices and resources to help insure that requests for services are reasonable and prudent. The focal point shall advise the host government concerning contract requirement and clarify requests for services as necessary.

III. Procedures

Requests for government quality assurance in Norway shall be directed to: Forsvarets felles Materieltjeneste, Oslo Mil/Loren, 00180 Oslo 1.

Requests for government quality assurance in the United States shall be directed to: Department of Defense Central Control Point, DCASR New York, 201 Varick Street, New York, New York 10014-4811

The format for request for quality assurance shall be as described in Annex A to STANAG 4107, with the following additional information:

- in block 7, the type of equipment which the material or spare parts pertain to, and the Armed Forces (Army, Navy, and Air Force) that employs the equipment;
- in block 10, desired services, if less than comprehensive support is needed.

The request shall reference STANAG 4107 and this annex to the MOU, and shall be processed according to the procedures in the STANAG. Acceptance or rejection shall be made within 45 calendar days of receipt by the performing government. The STANAG procedures shall be followed in regard to notifying the purchasing office of unsatisfactory conditions, processing deviations and waivers, and issuing certificates of conformity.

Direct communications between the purchasing office and the assigned quality assurance office are authorized and encouraged in resolving contract problems. The purchasing government shall retain final authority over contract interpretations and

enforcement actions, and shall advise the quality assurance office in a timely fashion on such matters as needed.

In the event the purchasing government envisions the assignment of on-site representatives, proposed terms of reference describing an appropriate working relationship with host government representatives will be suggested to the host government as early as possible.

IV. Responsibility and Liability

Nothing in this annex shall relieve the contractor of any responsibilities under the contract. No liability will attach to the Government, its officers or agents, acting under this Annex on behalf of the other Government.

V. Protection of Information

Data obtained through implementation of this annex shall receive the same protection against unauthorized disclosure as such data would normally receive under the laws and rules of the country which possess it.

VI. Charges

Services will be provided under this annex free of charge, for all contracts, subcontracts, and FMS Letters of Offer and Acceptance entered into on or after the date of implementation of this annex, provided that a joint review of the services being exchanged between the participating governments performed at not less than three year intervals indicates that general reciprocity is being maintained. If, as a result of such a joint review, either government determines that charges will be necessary, they may be imposed for future services after not less than one year advance notice. Should charges by the United States become necessary, Foreign Military Sales procedures then in effect will apply.

VII. Duration

This annex will remain in effect for a period as set forth in Article VII of the MOU, and may be terminated under the conditions as set forth in that Article.

VIII. Validity of Text

The English language and Norwegian language versions of this text have equal validity.

IX. Implementation

This Annex will come into effect on the date of the last signature.

For the Government of the United States of America

For the Government of Norway

Date: October 28, 1986.

Date:

* * * * *

T-205 Federal Republic of Germany
Memorandum of Understanding

* * * * *

Annex 5.—Memorandum of Understanding Between the Government of the Federal Republic of Germany and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in

the Research and Development, Production, Procurement and Logistic Support of Defense Equipment Dated 17 October 1978.

PRINCIPLES GOVERNING CONTRACT ADMINISTRATION SERVICES

1. Introduction

This Annex sets forth the terms, conditions, and procedures under which the Governments will provide each other with selected contract administration services and related information in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). It is recognized that in the event conflicts arise between any aspect of this Annex and the laws of either Government, the laws shall prevail.

2. Major Principles

The objective of this Annex is to insure each Government is able to employ the most effective and efficient contract administration support possible when acting under the MOU. Nothing is to be construed as impairing a purchasing Government's access to its contractors and their records as may be contractually authorized.

For the purpose of this Annex, contract administration shall include all those necessary actions, other than contract pricing and audit, to be accomplished at, or in proximity to, a firm's place of business to assist the purchasing office in evaluating a prospective contractor's capabilities and in monitoring and enforcing awarded contracts. This Annex supplements NATO Standardization Agreement (STANAG) 4107, hereby incorporated by reference in regard to reciprocal quality assurance.

3. General

The purchasing Government may request specific services and information selected from those listed in Appendix 1 to this Annex which it considers appropriate to the circumstances. The purchasing Government may elect to obtain additional support through its own on-site representatives provided there is no duplication of work performed by the host Government. In addition, the host Government will use its best efforts to supply information requested by the purchasing Government but not listed in this Annex when necessary to support contract award, enforcement, or termination. The provision of any services and information other than those defined in Appendix 1 will be on a cost reimbursable basis. The purchasing Government may modify a request for support during contract performance after consultation with the host Government.

The host Government shall accept requests for services to the extent resources are available and carry them out according to the procedures that Government uses for its own contracts.

Contracts shall contain suitable provisions for the host Government to act for and on behalf of the purchasing Government and shall authorize access to contractor facilities and records and use of contractor assets as necessary for the performance of contract administration services.

Where representatives of either Government deal with a contractor at the

same location in support of the same contract or separate contracts, they shall act in full concert according to terms of reference mutually agreed or to be agreed upon.

Each Government shall designate a single office to receive requests for contract administration services. This office shall arrange for the required services to be performed by the appropriate national organization. In addition, each Government may elect to designate an office in or near the other's country to act as a focal point through which requests for support will be forwarded. The host Government will endeavor to keep the purchasing Government's focal point apprised of current contract administration practices and resources to help insure requests for services are reasonable and prudent. The focal point shall advise the host Government concerning contract requirements and clarify requests for services as necessary.

4. Procedures

Requests for contract administration in the Federal Republic of Germany shall be directed to:

Bundesamt für Wehrtechnik und Beschaffung,
(Federal Office for Military Technology and Procurement), Konrad-Adenauer-Ufer
2-6, 5400 Koblenz 1, Tel 49-261-4001.

Requests for contract administration in the United States shall be directed to:

The Department of Defense Control Point,
DCASR New York, 201 Varrick Street, New
York, New York 10014, Tel 212/374-3446.

Contract administration requests will be accompanied by the number of copies of the request for proposal or awarded contract, as appropriate, prescribed in STANAG 4107 and will specify the contract administration services desired. Every effort will be made to forward support requests simultaneously with the forwarding of awarded contracts to the contractor. The format shall be as described in Annex A to STANAG 4107, with desired services other than quality assurance specified in Block 10. If less than comprehensive quality assurance is needed, the desired services selected from Allied Quality Assurance Publication (AQAP) 10 shall be specified in Block 10. Requests shall reference this Annex to the MOU and shall be processed according to the procedures in STANAG 4107 with due regard to Section VII of this Annex. In principle, acceptance or rejection shall be made within 30 calendar days of receipt by the host Government.

Direct communications between the purchasing office and the assigned contract administration office in resolving contract problems are authorized and encouraged. The purchasing Government shall retain final authority over contract interpretations and enforcement actions, and shall advise the contract administration office on such matters as needed.

In the event the purchasing Government envisions the assignment of in-plant representatives, proposed terms of reference describing an appropriate working relationship with host Government representatives will be suggested to the host Government as early as possible.

5. Responsibility and Liability.

Nothing in this annex shall relieve the contractor of any responsibilities under the contract. No liability will attach to the Government, its officers or agents, acting under this Annex on behalf of the other Government.

6. Protection of Information

Data obtained through the implementation of this Annex shall receive the same protection against unauthorized disclosure as such data would normally receive under the laws and rules of the country which possesses it.

7. Charges

Services defined in Appendix 1 and provided under this Annex will be free of charge, subject to a joint review of the services being exchanged at not less than three-year intervals. If, as a result of such a joint review, either Government determines that charges will be necessary, they may be imposed after not less than one year advance notice. Should such charges by the U.S. Government become necessary, or should the USC provide services other than those defined in Appendix 1, Foreign Military Sales Procedures then in effect will apply.

8. Duration

This Annex will remain in effect for a period as set forth in ARTICLE VII of the MOU, and may be terminated under the conditions as set forth in that Article.

9. Implementation

This Annex will come into effect on the date of the last signature.

For the Government of the United States of America

James P. Wade, Jr.,

Date: Dec. 6, 1983.

For the Government of the Federal Republic of Germany

Date: Dec. 6, 1983.

Appendix: 1. Services to be Exchanged.

Appendix 1 to Annex 5.—Principles Governing Contract Administration, Services To Be Exchanged

In accordance with the principles and procedures as set forth in this Annex the following services will be performed by the host Government within its national boundaries upon requests by and on behalf of the purchasing Government:

1. Support evaluations of contractor capabilities prior to award.

a. Supply available information concerning design, production, and quality control capabilities as appropriate; for example, the amount of available floor space, plant equipment, number of workers, past production of similar items, and (the information) whether the firm is able to meet the specific NATO allied quality assurance publication (AQAP) to be invoked on the contract.

b. Evaluate the financial strength of the prospective contractor, estimate the likelihood that financial resources will be sufficient to accomplish the contract, and

report the monetary value (in local currency) of host Government capital assets furnished or made available to the contractor which may be used in the contract.

c. Provide access to available accounting system disclosure statements and assistance in determining the system's ability to meet contractual requirements.

2. Perform Government quality assurance, as defined in STANAG 4107, in whole or in part as requested.

3. Report detected potential or actual slippages in contract delivery schedules or

any other contractor difficulties which might affect contract performance.

4. Assess contract progress if needed by the purchasing office to authorize financial payments, and recommend approval or disapproval of contractor payment requests.

5. Evaluate the feasibility and practicality of contractor production plans.

6. Verify contractor management reports furnished to the purchasing office during contract performance.

7. Evaluate and monitor contractor compliance with contract requirements governing technical data, especially the

propriety of any restrictive markings on data offered for delivery under the contract.

8. Monitor contractor costs under cost reimbursement contracts, and insure the purchasing office is advised of any anticipated overruns or underruns of estimated costs.

9. Advise the purchasing office if supporting contract administration is needed at subcontractor plants to verify the adequacy of prime contractor management, and assist the purchasing Government to obtain desired support within the host country.

APPENDIX I.—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPLES AND WEST GERMAN COST PRINCIPLES VOPR 30/53

(May 1984)

DAR/FAR reference		VOPR reference (translated version)
DAR 15-205.1, FAR 31.205-1	Advertising Costs—Most advertising costs are specifically unallowable under DAR, except for contract related labor recruitment and material acquisition/disposition. In contrast, VOPR specifically allows advertising costs, including both institutional and product advertising.	III B34.
DAR 15-205.2, FAR 31.205-3	Bad Debts—The costs of bad debts are specifically unallowable. There is no corresponding provision in the VOPR.	
DAR 15-205.3, FAR 31.205-18	Bid and Proposal Costs—Bid and proposal costs under DAR are limited by ceilings, established either by negotiation or formula. No similar restriction exists in the VOPR.	
DAR 15-205.4, FAR 31.205-4	Bonding Costs—Bonding costs are generally allowable under DAR. No specific reference in VOPR.	
DAR 15-205.5, FAR 31.205-5	Civil and Defense Costs—Such costs are generally allowable under DAR, except for contributions to local civil defense funds and projects. No comparable provisions are included in the VOPR.	
DAR 15-205.6, FAR 31.205-6	Compensation for Personal Services—Compensation for personal services includes all remuneration paid currently or accrued, in whatever form, for services rendered by employees. Such compensation is generally allowable, provided (1) it is for work performed in the current year and does not represent a retroactive adjustment of prior years' salaries or wages, (2) it is reasonable for the work performed, (3) it is based on and conforms to the terms and conditions of an established compensation plan or practice followed so consistently as to imply, in effect, an agreement to make the payment, (4) when existing compensation plans are revised or new plans are implemented, the Government, either before implementation or within a reasonable period thereafter, has an opportunity to review the allowability of the changes; otherwise no presumption of allowability will exist, and (5) the costs are not unallowable under other paragraphs of Part 2. Reasonableness is generally determined by comparison with other firms of the same size, in the same industry, or in the same geographic areas, performing similar services or work. Costs of compensation are not allowable to the extent that they result from provisions of labor management agreements that, as applied to work in the performance of Government contracts, are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. Specific coverage is also included for bonuses and incentive compensation, severance pay, stock options, and pension costs. The VOPR allows "reasonable" pay negotiated with individuals, but appears to accept categorically salaries and wages established by collective bargaining. This VOPR section also allows imputed entrepreneurial remuneration for sole proprietors or partners or relatives of such. For CAS covered contracts, the deferred compensation provisions in DAR 15-205.6 have been supplemented by CAS 412, 413, and 415.	III B22.
DAR 15-205.7, FAR 31.205-7	Contingencies—The cost of contingencies are generally unallowable for historical costing purposes under the DAR. However, the DAR recognizes as allowable in estimating future costs, contingency costs which may arise from presently known conditions. A fairly extensive exposition of contingent costs is included in the VOPR, which states costs of risk-related losses are allowable if spread over an extended period and if based on past experience possibly covering several years as a reference basis.	III K49.
DAR 15-205.8, FAR 31.205-8	Contributions and Donations—Contributions and donations are unallowable under Section XV of DAR. Such costs are allowable under the VOPR.	III F32.
DAR 15-205.9, FAR 31.205-11	Depreciation—The basic difference in the treatment of this cost element is that DAR provides for depreciation as a charge to distribute the cost less estimated residual value over the estimated useful life in a systematic and logical manner. Normal depreciation on a contractor's plant, equipment and other capital facilities is an allowable element of contract cost provided such costs are reasonable and allocable. Depreciation will ordinarily be considered reasonable if the contractor follows depreciation policies and procedures which (1) are consistent with policies and procedures followed in non-Government business, (2) are reflected in books of accounts and financial statements, and (3) are used and are acceptable for Federal income tax purposes. No depreciation, rental or use charge is allowed on property acquired at no cost from the Government. Assets acquired by means of a capital lease are subject to the provisions of this cost principle. The VOPR provides for recovery of acquisition cost or replacement cost and defines other requirements.	III K(a) 37 thru 42.

APPENDIX I.—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPLES AND WEST GERMAN COST PRINCIPLES VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated version)
DAR 15-205.10, FAR 31.205-13	Employee Morale, Health, Welfare and Food Service and Dormitory Costs and Credits—Such costs, less related income are allowable under the DAR with certain limitations. There is not specific coverage concerning these costs in the VOPR but could be considered additional benefits under the social costs section.	III B25.
DAR 15-205.11, FAR 31.205-14	Entertainment Costs—Entertainment costs are specifically unallowable under the DAR. These costs are allowable under the VOPR.	III H34.
DAR 15-205.12, FAR 31.205-17	Costs of Idle Facilities and Idle Capacity—Costs of idle facilities as defined in DAR are generally unallowable after a period of 1 year. The costs of "idle capacity" may be unallowable under DAR if the idle capacity is widespread. There are no similar restrictions in the VOPR.	
DAR 15-205.13, FAR 31.205-15	Fines and Penalties—Fines and penalties resulting from violations of or failure to comply with laws and regulations are unallowable except when incurred as a result of compliance with specific contract provisions or written instructions from the contracting officer.	
DAR 15-205.15, FAR 31.205-6	Fringe Benefits—This paragraph is cross-referenced to paragraph 15-205.6(m) in Section XV of DAR and costs are generally allowable if reasonable. Fringe benefits are generally allowable under the social costs section of VOPR.	III B25.
DAR 15-205.16, FAR 31.205-19	Insurance and Indemnification—Insurance costs under DAR are generally allowable, subject to certain limitations and restrictions. However, costs for business interruption insurance are specifically limited to exclude coverage for profit. The cost of insurance to protect a contractor against the costs of correcting its own defects in materials or workmanship is unallowable. There is no specific coverage of insurance costs in the VOPR.	
DAR 15-205.17, FAR 31.205-20	Interest and Other Financial Costs—Interest on borrowing, bond discounts, costs of financing and the like are unallowable under the DAR. Imputed interest may be included in the price calculation for the cost of operating capital under the VOPR.	III K(b) 43 thru 46.
DAR 15-205.18, FAR 31.205-21	Labor Relations Costs—Such costs are allowable under the DAR. There are no similar provisions in the VOPR.	
DAR 15-205.19, FAR 31.205-23	Losses on Other Contracts—Such costs are unallowable under the DAR. No specific reference is made in the VOPR.	
DAR 15-205.20, FAR 31.205-24	Maintenance and Repair Costs—Normal maintenance and repair are specifically allowable under DAR. Extraordinary costs are allowable if allocated to the periods to which they are applicable. Similar provisions are included under the VOPR.	III C26.
DAR 15-205.21, FAR 31.205-25	Manufacturing and Production Engineering Costs—Costs related to manufacturing processes such as time and motion studies and industrial engineering are specifically allowable under the DAR. There are no similar provisions in the VOPR.	
DAR 15-205.22, FAR 31.205-26	Material Costs—The costs of materials acquired specifically for a contract are allowable at the actual purchase costs under the DAR. Materials issued from stores may be charged to the contract by the use of any generally recognized inventory pricing method, provided the method is consistently applied and the results are equitable. DAR also provides that the allowance for materials "which are sold or transferred between any division, subsidiary or affiliate of the contractor under a common control shall be on the basis of cost incurred," except that a price may be used where such materials are transferred on the basis of a catalog or market price or on the basis of adequate price competition with outside organizations.	III A 11 thru 13.
Under the VOPR, commercial items supplied by the contractor's own organization are to be included in the costs at the current "price." This practice is not only permitted, but required. Similarly, noncommercial items furnished by the contractor's own organization are to be included at a "price" based on cost, if such transfers are not the usual practice of the industry. Noncommercial items are to be included at cost if such transfers are the usual practice of the industry. The term "the contractor's own organization" apparently refers to both intradivisional and interdivisional transactions. However, it specifically excludes related organizations which are legal entities. These are subcontractors who have to determine costs in accordance with the VOPR	III A19.	
Under the VOPR, material costs are to be reduced by quantity discounts, trade discounts, annual and turnover discounts, credit for returned materials, etc	III A18(3).	
DAR 15-205.23, FAR 31.205-27	Organizational Costs—Expenditures related to the organization or reorganization in the corporate structure of a business are unallowable under DAR, as are costs of raising capital. Similar restrictions are not included in the VOPR.	
DAR 15-205.24, FAR 31.205-28	Other Business Expenses—These costs include costs related to shareholders' meetings, proxy solicitations, annual reports, normal registry and transfer charges related to the contractor stock, etc. Such costs are generally allowable when allocated on an equitable basis. There are no similar costs mentioned in the VOPR.	

APPENDIX I.—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPLES AND WEST GERMAN COST PRINCIPLES VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated version)
DAR 15-205.25, FAR 31.205-35	Relocation Costs—The DAR includes extensive restrictions and limitations on the allowability of relocation costs. There are no similar costs mentioned in the VOPR.	
DAR 15-205.26, FAR 31.205-30	Patent Costs—As a general rule, costs related to patents are allowable under the DAR if required pursuant to a contract or if title or royalty free license in the patent is required to be conveyed to the Government. Patent costs related to patents to which the Government does not obtain title or royalty free license are unallowable. In contrast, the VOPR allows all patent costs regardless of whether the Government obtains title. However, such costs must be capitalized and amortized or allocated on an accrual basis.	III G33.
DAR 15-205.27, FAR 31.205-6	Pension Plans—This paragraph is cross-reference to Section 15-205.6(j) in Section XV of DAR. It contains detailed comments on limitations on pension costs and defines eligibility requirements which pension plans must meet. It also incorporates compliance with CAS Nos. 412, 413, and 415 which makes it necessary to analyze pension plans to assure pension costs are allowable. There is no specific reference to pension costs in the VOPR but they could fall under the social costs section.	III B25.
DAR 15-205.28, FAR 31.205-29	Plant Protection Costs—These costs are specifically allowable under DAR. Such costs are not specifically mentioned in the VOPR.	
DAR 15-205.29, FAR 31.205-31	Plant Reconversion Costs—Plant reconversion costs are defined in the DAR as those incurred in the restoration of the contractor's facilities to the same conditions which existed prior to the contract. Such costs are generally unallowable except for the cost of removing Government property. These costs are not specifically mentioned in the VOPR.	
DAR 15-205.30, FAR 31.205-32	Precontract Costs—Precontract costs are defined in DAR as those incurred prior to the effective date of a contract in anticipation of a contract award. They are generally allowable. No specific reference in VOPR.	
DAR 15-205.31, FAR 31.205-33	Professional and Consultant Service Costs—Legal, Accounting, Engineering and Other—These costs are generally allowable under the DAR, subject to certain criteria. However, they would not be allowable if the consultant fees were incurred in connection with activities the costs of which are otherwise unallowable under the DAR. While not specifically mentioned, such costs could be allowable under the VOPR section on other labor costs.	III B 22 and 23.
DAR 15-205.32, FAR 31.205-16	Gains and Losses on Disposition of Depreciable Property or Other Capital Assets are subject to special treatment under the DAR. There is no specific VOPR reference for treating these items.	
DAR 15-205.33, FAR 31.205-34	Recruitment Costs—Recruitment costs under DAR are generally allowable. However, costs of help wanted advertising may be unallowable under certain conditions. There is no specific reference to recruitment costs in the VOPR.	
DAR 15-205.34, FAR 31.205-36	Rental Costs—Costs of long-term leasing under the DAR are generally limited to the costs the contractor would have incurred were he the owner of the property. Similar limitations are placed by the DAR on rental costs incurred pursuant to a sale and leaseback agreement or pursuant to a lease with an organization under common control. Similar restrictions do not exist in the VOPR and rental costs are generally allowable.	III H34.
DAR 15-205.35, FAR 31.205-18	Independent Research and Development Costs—Independent research and development costs under the DAR are limited to an amount established either by a formula or by negotiated advance agreements. The threshold under FAR for advance agreements is based on all Government contracts and subcontracts, rather than just DoD contracts and subcontracts as in DAR. Independent research and development costs are to include an allocation of all overhead costs except general and administrative expenses. The allowable independent research and development costs generally must be allocated on the same base used by the contractor to allocate general and administrative expenses. Costs of deferred independent research and development are normally unallowable. Under the VOPR, costs of independent development and contract-sponsored development beyond the scope of the contractor "independent" development will be subject to a separate agreement. Costs will be broken down into costs by these two types and their allocation will be substantiated separately for each under the VOPR. There appears to be no specific references in the VOPR concerning the allocation of overhead to independent research and development projects.	III D 27 and 28.
DAR 15-205.36, FAR 31.205-37	Royalties and Other Costs for Use of Patents—Costs of royalties for the use of a patent are generally allowable under the DAR unless the Government has a license or right to free use of the patent. License fees paid are generally allowable under the VOPR.	III G33.
DAR 15-205.37, FAR 31.205-38	Selling Costs—Selling costs under the DAR are generally allowable to the extent that they are reasonable and allocable to Government business. Allocability is to be judged in light of the benefit to the Government from technical, consulting, demonstration, or other services. Compensation of salesmen or agents which is contingent on the award of contracts is allowable only when paid to bona fide employees or bona fide sales agencies. The selling costs incurred for potential and actual FMS sales are not allocable to USC contracts. The VOPR does not address normal selling costs specifically but does discuss "special selling costs"; which are allowable if the services are required and are "within reasonable limits." There are no restrictions on FMS sales but agents' commissions may be limited by agreement and will be shown separately in price calculations.	III J35.
DAR 15-205.38, FAR 31.205-39	Service and Warranty Costs—Such costs are generally allowable under the DAR, subject to the caution that such costs must not duplicate specific provisions for service and warranty as an element of contract costs. Under the VOPR section these types of costs can be construed to fall under the definition of contingencies as "losses that have actually arisen from risks in the past" and are allowable subject to certain restrictions.	III K49.

APPENDIX I.—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPLES AND WEST GERMAN COST PRINCIPLES VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated version)
DAR 15-205.39, FAR 31.205-6	Severance Pay—This paragraph is cross-referenced to Section 15-205.6(g) in Section XV of DAR. Costs of severance pay attributable to normal turnover is allowable as an ongoing cost under the DAR. Accruals for abnormal or mass severance pay are not allowable. However such costs can be considered on a case-by-case basis when they arise. No specific mention of such costs is made in the VOPR.	
DAR 15-205.40, FAR 31.205-40	Special Tooling and Special Test Equipment Costs—Costs of special tooling, etc., required specifically for the contract are generally allowable as a direct cost of such contract under the DAR. The VOPR states special tooling may be reimbursed by a one-time payment if allocable to a single contract or else will be amortized to the items supplied as special manufacturing costs.	III A14.
DAR 15-205.41, FAR 31.205-41	Taxes—Taxes which are paid or accrued in accordance with generally accepted accounting principles are allowable under the DAR, with certain exceptions. Significant exceptions include Federal income taxes and taxes on any category of property used solely in connection with work other than Government contracts. In addition, under the DAR, income tax accruals designed to account for the tax effects of differences between taxable income and pretax book income are unallowable. The VOPR specifically provides that income tax, corporate tax, inheritance tax and gift tax are unallowable. The VOPR also identifies allowable taxes; trade tax, property tax, real estate tax, motor vehicle taxes and taxes on internal consumption. Certain taxes are treated as special costs; "turnover tax" on goods and services including prior-stage taxes and special excise taxes levied on the products. Special problems arise in connection with the turnover or value-added tax because the contractor can deduct from the value-added tax, the amount of the tax he has paid in the cost of goods obtained from others. Under the VOPR, equalization-of-burdens levies are not allowable.	III F 30 and 31.
DAR 15-205.42, FAR 31.205-42	Termination Costs—The DAR contains extensive provisions for the determination of costs under a termination settlement. No similar provisions are contained in the VOPR.	
DAR 15-205.43, FAR 31.205-43	Trade, Business, Technical and Professional Activity Costs—These costs under DAR include such items as memberships, subscriptions and meetings and conferences. The costs of all of these items are generally allowable. There are no comparable references in the VOPR.	
DAR 15-205.44, FAR 31.205-44	Training and Educational Costs—The DAR limits the allowable costs for training and education to bona fide employees. Costs for full-time education and costs of specialized programs designed to enhance the effectiveness of employees are subject to limitations. The VOPR does not contain any specific provisions for training and education costs.	
DAR 15-205.45, FAR 31.205-45	Transportation Costs—Transportation costs such as freight, express and postage are specifically allowable under DAR as either direct or indirect costs. The VOPR states costs of this nature will be stated separately "unless they are charged to other costs in the interest of efficient accounting."	III J36.
DAR 15-205.46, FAR 31.205-46	Travel Costs—The DAR specifically allows travel costs either on the basis of actuals or per diem. However the difference between first-class air travel and less than first class air travel is generally unallowable. In addition, the DAR provides some limiting criteria regarding the allowability of the costs of company aircraft. The VOPR does not contain any specific references or limitations regarding travel costs.	
DAR 15-205.47, FAR 31.205-12	Economic Planning Costs—Under DAR these costs include costs of generalized long-range management planning for the future development of business and are specifically allowable as indirect costs. The VOPR does not include any mention of these costs.	
DAR 15-205.48, FAR 31.205-2	Automatic Data Processing Equipment (ADPE) Leasing Costs—The DAR contains provisions which would frequently limit costs of leasing ADPE equipment to the costs that the contractor would have incurred had he purchased the equipment. In contrast, the VOPR states rental costs (which would include ADPE rental costs) are allowable if the rental costs are purchased on the "same favorable terms and conditions as are customarily granted . . ."	III H34.
DAR 15-205.49, FAR 31.205-48	Deferred Research and Development Costs—Research and development costs incurred prior to award of a contract are unallowable except when allowable as precontract costs, plus other limitations. The VOPR contains no specific mention of deferred R&D. See VOPR reference III D27 and 28 for comments on "Independent" and "Contract-sponsored" development.	
DAR 15-205.50, FAR 31.205-10	Cost of Money—Cost of money under DAR is an allowable imputed cost base of facilities capital employed and as an element of cost of capital assets under construction. The VOPR provides for imputed interest costs based on the cost of operating capital. It defines operating capital to include "fixed and current assets that serve the primary operations of the enterprise." The VOPR also permits the use of replacement cost methods to price the assets.	III Kb43 thru 46.
DAR 15-205.51, FAR 31.205-22	Lobbying Costs—Lobbying costs "including the applicable portion of the salaries of employees" are unallowable under the DAR. This section further defines the activities considered lobbying. There is no similar reference in the VOPR. As of 1 July 1984 the FAR will be changed to incorporate the requirements of OMB Circular A122. The content of the revision follows:	

APPENDIX I.—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPLES AND WEST GERMAN COST PRINCIPLES VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated version)
DAR 15-205.52, FAR 31.205-47	<p>Costs associated with (1) attempts to influence the outcome of any Federal, State or local election, referendum or initiative, (2) establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organizations established for the purpose of influencing the outcome of elections, and (3) attempts to influence the introduction, enactment or modification of any Federal or State legislation, are generally unallowable. Certain activities (e.g., providing technical and factual information in response to a legislative request, or any activity specifically authorized by statute to be undertaken with funds from the contract) are excepted from the foregoing coverage. The cost principle also contains provisions covering treatment and documentation of allowable and unallowable costs.</p> <p>Defense of Fraud Proceedings—Costs incurred in connection with the defense of any criminal or civil investigation, grand jury proceeding or prosecution, civil litigation, or suspension, debarment or other administrative proceedings, brought by the Government against the contractor, are unallowable when the charges involve fraud on the part of the contractor, its agent or employees, and result in conviction, judgment against the contractor, or are resolved by consent or compromise.</p> <p>Fraud includes (1) acts of fraud or corruption or attempts to defraud the Government or to corrupt its agents, (2) acts which constitute a cause for debarment or suspension under the Defense Acquisition Regulation, and (3) acts which violate the False Claims Act or the Anti-Kickback Act. This area is not covered in VOPR.</p>	

NOTE: As of 1 April 1984 the FAR replaced the DAR and the non-DoD Government agencies regulation FPR. DoD has issued the DoD FAR Supplement. Contracts issued after the above date are subject to the new regulation. Those issued prior to that date continue to operate under DAR. Both references are therefore listed above.

T-206 Italy Memorandum of Understanding

Annex IV to the Memorandum of Understanding Between the Government of the United States of America and the Government of Italy Concerning Mutual Cooperation in Defense Equipment, Research and Development, Production and Procurement, Dated 11 September 1978

Reciprocal Quality Assurance Services

1. Preamble

This Annex sets forth the terms, conditions, and procedures under which the participating governments shall provide one another with quality assurance services in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). The procedures of STANAG 4107 and AQAP-10 shall apply as supplemented by this Annex.

If special quality assurance arrangements are made for international co-operative projects in which the United States and Italy participate, those special arrangements shall have precedence over this Annex.

The objective of this Annex is to insure each participating government is able to employ the most effective and efficient quality assurance support possible when acting under this MOU. Nothing is to be construed as impairing a purchasing government's access to its contractors and their records as may be contractually authorized.

2. General

A flexible arrangement is envisioned under which a purchasing government may, on a case-by-case basis, request full quality assurance support as described in AQAP-10 or, alternatively, request specified services listed in AQAP-10 as it considers appropriate to the circumstances. The purchasing

government may elect to perform other necessary services through its own on-site representatives, and will inform the host government in such cases, in order to avoid duplication of the work performed by this one.

The purchasing government may modify a request for support during contract performance, after consultation with the host government.

The participating governments shall accept requests for services to the extent resources are available and carry them out according to the procedures each government uses for its own contracts.

Contracts shall contain suitable provisions for the host government to act for and on behalf of the purchasing government and shall authorize access to contractor facilities and records as necessary.

Where representatives of both participating governments deal with a contractor at the same location in support of the same or separate contracts, they shall operate in full concert according to terms of reference mutually agreed upon.

The participating governments shall each designate the office to receive requests for quality assurance services, as specified in the next paragraph. In addition, each participating government may elect to designate an office in or near the other participating country to act as a focal point through which requests for quality assurance will be forwarded. The host government will endeavor to keep the focal point apprised of current quality assurance practices and resources to help insure that requests for services are reasonable and prudent. The focal point shall advise the host government concerning contract requirements and clarify requests for services as necessary.

3. Procedures

Requests for government quality assurance in Italy shall be directed to MINISTERO DELLA DIFESA-UFFICIO CENTRALE ALLESTIMENTI MILITARI-Via XX Settembre 123, 00100 Roma, Italy.

Requests for government quality assurance in the United States shall be directed to the Department of Defense Central Control Point, DCASR New York, 201 Varrick Street, New York, NY 10014.

The format requests for quality assurance shall be as described in Annex A to STANAG 4107, with the following additional information:

- in Block 7, the type of equipment which the materiel or spare parts are pertaining to, and the Armed Forces (Army, Navy, and Air Force) that employs the equipment;
- in Block 10, desired services, if less than comprehensive support is needed.

The requests shall reference STANAG 4107 and this Annex to the MOU, and shall be processed according to the procedures in the STANAG. The STANAG procedures shall also be followed in regard to notifying the purchasing office of unsatisfactory conditions, processing deviations and waivers, and issuing certificates of conformity.

Direct communications between the purchasing office and the assigned quality assurance office are authorized and encouraged in resolving contract problems. The purchasing government shall retain final authority over contract interpretations and enforcement actions, and therefore shall advise the quality assurance office in a timely fashion on such matters as needed.

In the event the purchasing government envisions the assignment of on-site representatives, proposed terms of reference describing an appropriate working

relationship with host government representatives will be suggested to the host government as early as possible.

4. Protection of Information

Data obtained through implementation of this Annex shall receive the same protection against unauthorized disclosure as such data would normally receive under the laws and rules of the country which possesses it.

5. Charges

Services will be provided under this Annex free of charge, provided that a joint review of the services being exchanged between the participating governments performed at not less than three year intervals indicates that general reciprocity is being maintained.

In the event either government determines that charges will be necessary, they may be imposed for future services after not less than one year advance notice, applying Foreign Military Sales procedures then in effect.

6. Termination

This Annex may be terminated in writing by either participant, to become effective the last day of the sixth month after notice of termination is given.

7. Validity of Text

The English language and Italian language versions of this text have equal validity.

For the Government of the United States of America

Date: Jan. 7, 1983.

For the Government of Italy

Date: Jan. 7, 1983.

T-214 Israel Memorandum of Understanding.

Memorandum of Understanding Between the Government of Israel and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in Research and Development, Scientist and Engineer Exchange, Procurement and Logistic Support of Defense Equipment

PREAMBLE

The Government of the United States of America and the Government of Israel, hereinafter referred to as the Governments:

- Noting their previous agreements on (1) Data Exchange (signed on 22 December 1970), (2) the Production in Israel of US Designed Defense Equipment (signed on 1 November 1971), and (3) Principles Governing Mutual Cooperation in Research and Development, Scientist and Engineer Exchange, and Procurement and Logistics Support of Selected Defense Equipment (signed on 19 March 1979, and amended 19 March 1984), which is hereby superseded, and (4) General Security of Information (signed on 10 December 1982) and its Industrial Security Annex (signed on 3 March 1983),

- Intending to increase their respective defense capabilities through more efficient cooperation in the field of research and development, production, procurement and logistic support in order to:

- Promote the cost-effective and rational use of funds allocated to defense to the extent

permitted by their national laws and policies, and

- Mutually benefit from selected research and development programs which satisfy each nation's defense needs in a cost effective manner, and

- Noting that the Governments will continue to purchase large quantities of defense equipment on a competitive basis from each other, the Governments agree to allow each other's sources to compete on defense requirements and have entered into this Memorandum of Understanding and its Annexes which are incorporated herein, in order to achieve the above aims.

This Memorandum of Understanding (MOU) and its Annexes set out the guiding principles governing mutual cooperation in research and development, procurement and logistic support of conventional defense supplies and services.

Article I.—Principles Governing Reciprocal Defense Cooperation

1. The Governments intend to facilitate the accomplishment of the above-stated aims through operational and technical exchange leading toward understanding of military requirements and their technological solutions, through cooperation in the research and development areas, and data exchange and scientist-engineer exchange program, as covered in Annexes hereto; and by allowing each other's national sources to offer conventional defense supplies and services in accordance with this MOU.

2. Consistent with national laws & regulations, each Government will accord the following treatment to offers of conventional defense supplies to be produced, and services to be performed in the other country:

a. These offers will be evaluated without applying price differentials resulting from Buy National laws and regulations, including the Balance of Payments Program.

b. These offers will be evaluated without consideration of the cost of duties and provisions will be made for duty-free entry certificates and related documentation.

c. Except as provided below, full consideration will be given to qualified industrial or governmental sources of the other country for conventional defense supplies and services consistent with the policies and criteria of the cognizant purchasing agencies, if such offers satisfy all requirements of the purchasing organization for performance, including requirements related to quality, delivery and cost. The US will not consider procurement from Israeli sources if the procurements are: (1) restricted by US disclosure policies or US industrial security requirements, (2) set aside for small business, (3) reserved for mobilization base suppliers, (4) otherwise restricted by law or regulation. In addition, the U.S. may restrict the geographic region in which contracts for the maintenance, repair, or overhaul of equipment that are part of the DoD Overseas Workload Program may be performed if appropriately designated officials of the Department of Defense determine that performance of the contract outside that specific region:

(a) could adversely affect the military preparedness of the Armed Forces of the U.S.; or

(b) would violate the terms of an international agreement to which the U.S. is a party.

d. Each Government's laws and regulations relating to purchases of goods and services (including the requirements for obtaining competition for such purchases) shall be applicable to purchases by each Government, respectively, in the implementation of this agreement.

e. Whenever permitted by law, waivers of further restrictive requirements are encouraged to facilitate the participation of sources in one country in the procurements of the other country.

3. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense procurement organizations to facilitate the achievement of improved defense cooperation. Each Government will also be responsible for calling to the attention of the relevant industries within its country the existence of this Memorandum of Understanding together with appropriate implementing guidance.

4. Technical information, including Technical Data Packages (TDPs), furnished to the Government, to firms, or to persons in the other country for the purpose of offering or bidding on, or performing a defense contract shall not be used for any other purpose without the prior agreement of the originating government as well as the prior agreement of those owning or controlling proprietary rights in such technical information. Each Government will ensure that full protection will be given by its officers, agents, and firms to such proprietary information, or to any privileged, protected or classified data and information they contain. Each Government will also undertake its best efforts to ensure compliance with the foregoing provisions on the part of other firms, or persons in its country. In no event shall such technical information or TDPs or products derived therefrom be transferred to any third country or other third party transferee without the prior written consent of the originating Government.

5. Both Governments will undertake their best efforts to assist in negotiating licenses, royalties, and technical information exchanges with their respective industries, when required. Both Governments will also facilitate the necessary export licenses required for the submission of bids or proposals or otherwise required for the performance of this MOU and its Annexes.

6. The transfer to third countries of material or technical information and of articles derived therefrom generated from the mutual cooperative programs included in this MOU or purchased pursuant to this MOU is subject to case-by-case advance agreement of the originating Government.

7. Arrangements and procedures will be established concerning follow-on logistic support for items of defense equipment covered by this Memorandum of Understanding. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II.—Implementing Procedures

Implementing guidance is included in Annex I. A joint US DoD-Israel MOD committee shall be established to update the annexes as appropriate and periodically review the progress of implementation. The Under Secretary of Defense for Acquisition, in coordination with the Assistant Secretary of Defense for International Security Affairs, and other appropriate Department of Defense and State officials, will be responsible in the US Government for the implementation of this MOU. The Director General, Israel Ministry of Defense will be the responsible counterpart authority for the Government of Israel. Other duties to be assigned this committee and the frequency of their meetings shall be further defined in Annex I.

Article III.—Security.

To the extent that any items, plans, specifications or information furnished in connection with specific implementation of this MOU are classified by either Government for security purposes, the General Security of Information Agreement, dated 10 December 1982, between the Governments and that Agreement's Industrial Security Annex, dated 3 March 1983, shall apply.

Article IV.—Duration

1. This MOU will remain in effect for a ten year period following its signing and will be extended for successive five-year periods, if at the end of each interval the Governments mutually agree to such an extension.

2. If, however, either government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the Parties, any contract entered into consistent with the terms of this MOU shall continue in effect, unless the contract is terminated in accordance with its own terms. Moreover, Article I, Sections 4 and 6 and Article III of this MOU will continue in full force and effect after, and notwithstanding, the expiration or termination of this MOU.

3. In any event, this MOU may be amended at any time upon the written agreement of the parties.

Article V.—Annexes

The following annexes are an integral part of this MOU:

- I. Principles Governing Implementation
- II. Research and Development
- III. The Mutual Acceptance of Test & Evaluation for the Reciprocal Procurement of Defense Equipment.

Further annexes to this MOU may be negotiated by the responsible officers and

approved by the appropriate authorities of each Government and will be treated as an integral part hereof.

For the Government of Israel, the Minister of Defense

Date: Dec. 14, 1987.

For the United States, the Secretary of Defense

December 14, 1987.

ANNEX I.—Principles Governing Implementation to Memorandum of Understanding Between the Government of Israel and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in Research and Development, Scientist and Engineer Exchange, and Procurement and Logistic Support of Defense Equipment

I. Terms of Reference

1. A joint US Department of Defense-Israel Ministry of Defense Committee (hereafter to be called "the Committee") is hereby established to serve, under the direct responsibility of the authorities listed in Article II of the Memorandum of Understanding (MOU), as the main body responsible for implementation of the MOU.

2. In particular, the Committee will be responsible for implementing the MOU and its Annexes, which govern mutually beneficial cooperation in conventional defense equipment research and development, procurement and logistic support of conventional defense equipment; to this end the Committee will meet as required pursuant to the request of either Government, but not less than once every year, alternating in each country, to review progress in implementing the MOU. To the extent practical, the agenda for the Committee Meeting and issues to be discussed will be mutually agreed to at least 30 days in advance of the meeting. In this review:

A. They will discuss mutually beneficial cooperation in areas covered by the MOU.

B. They will exchange information as to the way the stipulations of the MOU have been carried out, and, if need be, prepare proposals for amendments of the MOU and its Annexes.

C. They will provide an annual financial statement of the current status of procurement under the MOU, give guidance for its yearly preparation, and report on the progress of MOU implementation.

D. They will consider problems which impeded the implementation of this MOU in accordance with the procedures in paragraph 3 and 4 below.

E. They will meet from time to time with representatives of the industries of each country to foster the objectives of the MOU.

3. The Committee will act as a forum for the consideration of all problems arising in the operation of the MOU, including issues relating to amending and interpreting its Annexes, and make recommendations to the parties for the resolution of such problems. In this context the Committee will:

—Establish procedures for raising and resolving problems involving the

implementation of the MOU that are brought to its attention.

—If the Committee is unable to reach a consensus, refer the matter to the Under Secretary of Defense for Acquisition, in the event the United States is the procuring party, or to the Director General, Ministry of Defense, in the event Israel is the procuring party, in which case, the decision of the Under Secretary or the Director General shall be final.

4. The Committee shall not constitute the exclusive forum for the resolution of problems arising in the operation of the MOU; any aggrieved person may pursue whatever legal or administrative remedies are available to it in either country.

II. Principles**1. Major Principles.**

A. The US Department of Defense (DoD) and the Ministry of Defense of Israel (MOD) will consider for their defense requirements qualified conventional defense supplies and services developed or produced in the other country.

B. In reviewing an item for possible eligibility for full and open competition, the DoD and MOD will consider for their respective procurements the following:

1. *Releasability of technology.* The technology may be released by making available to Israeli or US Industry a government owned Technical Data Package which is provided with an IFR or RFP. The release of technology may also take place through an export license application processed by a US or Israeli prime contractor for technology to be used by an Israeli or U.S. subcontractor. Technology transfer approval will be in accordance with established procedures and guidelines of each nation.

2. *Set-Asides.* Items that are set aside for Small or Disadvantaged Business or Labor Surplus Areas participation shall be excluded.

3. *Mobilization Base.* The minimum production rate that will insure that facilities, producers, manufacturers or other suppliers are available for furnishing supplies or services in case of national emergency or to achieve mobilization shall be excluded.

4. *Items Restricted by Law or Regulation.*

5. *Military Preparedness.* In accordance with Article I of the MOU, appropriately designated officials may restrict the performance of certain contracts to a specified geographic region. The office of the Secretary of Defense will designate the officials authorized to make this determination within 90 days after signing of the MOU.

C. In all instances, when a government intends to procure an item for which non-domestic sources may not compete, the procuring Government shall state in its solicitation that the procurement is limited to domestic sources only.

D. It is the responsibility of government owned entities or industry representatives in each country to acquire information concerning the other country's proposed research, development, and purchases for items or services for which its firms are eligible to compete in accordance with

procurement procedures and applicable law. However, the responsible government agencies in each country will assist sources in the other country, to obtain information concerning intended research and development, proposed purchases, and necessary qualifications and appropriate documentation, as provided by law and regulations.

2. Action.

DoD and MOD will review and, where considered necessary and to the extent provided by law, revise their respective policies, procedures, and regulations and develop implementation procedures to ensure that the principles and objectives of the MOU, which are intended to promote the cost effective and rational use of funds allocated to defense, are taken into account. DoD and MOD agree that the following measures shall be taken, recognizing that, among other factors, delivery date requirements for supplies, the interest of security and the timely conduct of the procurement process are considerations that may preclude full and open competition for the award of contracts:

A. Ensure that their respective requirements offices are familiar with the principles and objectives of this MOU.

B. Ensure that their respective research and development offices and institutes are familiar with the principles and objectives of this MOU.

C. Ensure that their respective procurement offices are familiar with the principles and objectives of this MOU.

D. Ensure wide dissemination of the basic understanding of this MOU to their respective industries producing or developing approved defense items or services.

E. Ensure that, consistent with national laws, regulations, and this MOU, offers of conventional defense supplies produced and services performed in the other country will be evaluated without applying to such offers either price differentials under buy-national laws and regulations or the cost of import duties, to the extent that existing laws and regulations permit the waiver of such import duties. Full consideration will be given to qualified industrial or governmental sources in each other's country. Provisions will be made for duty-free entry certificates and related documentation to the extent that existing laws and regulations permit.

F. Assist industries in their respective countries to identify and advise the other government of their production capabilities and assist such industries in carrying out the supporting actions for industrial participation.

G. Identify requirements and proposed purchases to the other country in a timely fashion to ensure that the industries of such country are afforded adequate time to be able to participate in the research, development, production and procurement processes.

H. The DoD will publish in a publicly available publication a summary of the notice of proposed purchases. Similarly, the MOD will submit to a designated point of contact at the U.S. Embassy, in Tel Aviv, a summary of the proposed purchases, at least 30 days prior to the issuance of the solicitation. In both cases, at least the following information will be given:

1. Subject matter of the contracts;
2. Time limits set for the submission of offers or application for solicitation; and
3. Addresses from which solicitation documents and related data may be requested.

I. Provide, on request, copies of solicitations for proposed purchases. A solicitation shall constitute an invitation to participate in the competition, and shall contain the following information:

1. the nature and quantity of the products to be supplied;
2. whether the procedure is by sealed bids or negotiation;
3. any delivery date;
4. the address and final date for submitting offers as well as the language or languages in which they must be submitted;
5. the address of the agency awarding the contract and providing any information required by the suppliers;
6. any economic and technical requirements, financial guarantees and information required from suppliers;
7. the amount and terms of payment of any sum payable for solicitation documentation.

J. Publish conditions for participation in procurements in adequate time to enable interested suppliers to initiate and, to the extent that it is compatible with efficient operation of the procurement process, complete the bidding process.

K. Provide upon request by any supplier, pertinent information concerning the reason why that supplier's application to qualify for the suppliers' list was rejected, or why that supplier was not invited or admitted to tender.

L. Establish a contact point to provide additional information to any unsuccessful offeror dissatisfied with the explanation or rejection of this offer or who may have further questions about the award of the contract.

M. Provide upon request by an unsuccessful tenderer, pertinent information concerning the reasons why the offeror was not selected, including information on the characteristics and the relative advantages of the offer tender selected, as well as the name of the winning offeror.

N. Use best efforts to assist in negotiating licenses, royalties, and technical information exchanges among their respective industries, and research and development institutes.

III. Membership and Points of Contact

The Governments will appoint the members of this committee and points of contact under separate cover and will update these appointments as necessary.

For the Government of Israel

Date: Dec. 14, 1987.

For the Government of the United States of America

Date: Dec. 14, 1987.

Part 4—Other Memoranda of Understanding
T-400 Reserved.

T-401 Sweden Memorandum of Understanding

Memorandum for Assistant Secretary of the Army (Research, Development & Acquisition); Assistant Secretary of the Navy (Shipbuilding & Logistics); Assistant Secretary of the Air Force (Acquisition); Director, Defense Logistics Agency

Subject: Memorandum of Understanding with Sweden on Defense Procurement

A Memorandum of Understanding on mutual cooperation in defense procurement has been signed by Secretary of Defense Weinberger and Swedish Defense Minister Carlsson. It became effective on June 16, 1987. A copy is provided herewith for your guidance pending implementation in the DoD FAR Supplement. In accordance with paragraph 4 of Article I, the offer of a Swedish product should be evaluated as if it were a participating country offer in accordance with DFARS 25.7403(a)(3). If, after such evaluation, the Swedish offer is otherwise eligible for award, the contracting officer shall request the appropriate waiver of the Buy American Act for the acquisition. In most cases the appropriate waiver would be a determination that the acquisition of a domestic product would be inconsistent with the public interest. The authority to make determinations that the acquisition of a domestic product would be inconsistent with the public interest is delegated in DFARS 25.102(70)(2). This Section was revised on July 29, 1987, by the DARS Council for immediate implementation. The revision delegated authority to make determinations as indicated in DFARS 25.102(71).

ELEANOR R. SPECTOR,

Deputy Assistant Secretary of Defense for Procurement.

Memorandum of Understanding Between the Government of the United States of America and the Government of the Kingdom of Sweden Relating to the Principles Governing Mutual Cooperation in the Defense Procurement Area

Preamble

The Government of the United States of America and the Government of the Kingdom of Sweden, hereinafter referred to as the Governments:

- Bearing in mind the traditional policy of neutrality on the part of Sweden and the membership of the United States in the North Atlantic Treaty Organization and

- Having regard to the friendly relations existing between them and in order to:

- Assure a long-term and equitable balance in reciprocal purchasing of commodities and services for defense purpose items; and

- Make the most cost-effective and rational use of the funds allocated to defense; and
- Remove barriers to reciprocal defense trade to the extent mutually beneficial to include government-imposed offset requirements; and

- Promote the exchange of defense technology to the extent consistent with their respective national policies.

- Have entered into this Memorandum of Understanding (MOU).

This MOU sets out the guiding principles governing mutual cooperation in defense procurement.

Article I.—Principles Governing Cooperation

1. Both Governments intend to achieve and maintain a long-term, equitable balance in their exchanges of defense equipment, in terms of the value of contracts and technological levels, to the maximum practicable extent consistent with their national policies.

2. The two Governments will, consistent with the laws, regulations, and practices having the force of law of each Government, give favorable consideration to all requests for cooperation in defense equipment research and development, production, procurement, and logistical support.

3. Both Governments will provide appropriate policy guidance and administrative procedures with their respective defense procurement organizations to facilitate achievement of the aims of this MOU.

4. Barriers to procurement or coproduction at the prime and subcontract levels of an item of defense equipment that has been produced in the other country shall be removed, insofar as laws and regulations permit. When a firm of the other party submits a bid or offer which could be the low responsive and responsible offer but for the application of any buy-national requirements, both parties agree to process waiver requests of any buy-national requirement or restrictive procurement regulations insofar as national laws and regulations permit.

5. Customs duties shall be waived to the extent authorized by law.

6. Competitive contracting procedures as required by law or regulation shall be used in acquiring defense equipment.

7. Favorable consideration will be given to all qualified industrial and Government sources in each other's country consistent with the national procurement policy and criteria. It is therefore understood that items offered shall satisfy requirements for performance, quality, delivery, and cost. Both Governments will use their best efforts to facilitate the qualification for eligibility.

8. Each Government will provide information regarding requirements and proposed purchases in a timely fashion to ensure adequate time for industries of the other country to qualify for eligibility and submit a bid or proposal.

9. Each Government will ensure that the technical data packages (TDPs) made available under this MOU are not used for any purpose other than for the purpose of bidding on and performing a prospective defense contract without the prior agreement with those owning or controlling proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDPs be transferred to any third country or any other transferee without the prior written consent of the originating Government.

10. Arrangements and procedures will be established concerning follow-on logistic support for items of defense equipment covered by this MOU. Both Governments will make their defense logistic systems and

resources available for this purpose as required and mutually agreed.

Article II.—Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this MOU. Terms of reference will be proposed for a Swedish-American Committee for Reciprocal Procurement, including rules governing its work. The implementing procedures under this MOU shall be an integral part thereof.

2. The Under Secretary of Defense for Acquisition, in coordination with the appropriate Department of Defense officials, will be the responsible authority in the United States Government for the development of implementing procedures under this MOU.

3. The Assistant Under Secretary of Defense for Procurement in the Ministry of Defense will be the responsible authority of the Government of Sweden for any matter relating to the procedures for implementing this MOU.

Article III.—Industry Participation

1. Each Government will be responsible for calling to the attention of the relevant industries within its country the basic understanding of this MOU, together with appropriate implementing guidance. Both Governments will take all necessary steps so that the industries comply with the regulations pertaining to security and to safeguarding classified information.

2. Implementation of this MOU will involve full industrial participation. Accordingly, the Governments will arrange to inform their respective procurement and requirements offices concerning the principles and objectives of this MOU. However, primary responsibility for finding business opportunities in areas of research and development and production shall rest with the industrial participants of each country.

Article IV.—Security

Any classified information furnished by either Government in connection with the implementation of this MOU shall be protected by the receiving Government in compliance with the U.S.-Sweden General Security of Military Information Agreement of 23 December 1981, and the Security Procedures for Industrial Operations between the Supreme Commander of the Swedish Armed Forces and the Department of Defense of the United States (Security Protocol), effective 16 February 1982.

Article V.—Duration

1. This agreement will remain in effect for 10 years following its signing, unless otherwise agreed by both Governments. It will be automatically extended for further 10-year periods, unless 6 months' advance notice of termination is given by either Government concerned.

2. If, however, either Government considers it necessary for compelling national reasons to discontinue its participation under this MOU before the end of the 10-year period, written notification of its intention will be given to the other Government 6 months in advance of the effective date of discontinuance. Such notification of intent

would be a matter of immediate consultation with the other Government to enable the Governments to evaluate fully the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the parties, any contract entered into consistent with the terms of this agreement shall continue in effect, unless the contract is terminated in accordance with its own terms.

Article VI.—Administration

1. Each Government will designate points of contact at the Ministry of Defense level and in each purchasing service or agency.

2. Government representatives will meet as agreed or at the request of either Government to review progress in implementing the MOU. They will discuss development, production, and procurement needs of each country and the likely areas of cooperation, and will consider any other matters relevant to the MOU.

Article VII.—Annexes

Annexes negotiated by the responsible offices and approved by the appropriate Government authorities will be incorporated in this MOU and made an integral part thereof.

Article VIII.—Implementation

1. The arrangements contained in this MOU represent the understanding reached between the Government of the United States of America and the Government of the Kingdom of Sweden upon the matters referred to herein. Each Government must mutually agree to any amendment of this MOU.

2. This agreement, in two original texts in the Swedish and English languages, both texts being equally authentic, will come into effect on the date of the last signature.

For the Government of the Kingdom of Sweden, The Minister of Defense

For the United States Government, The Secretary of Defense

Date: June 11, 1987.

Date: June 11 1987.

His Excellency Count Wilhelm Wachtmeister, Ambassador of Sweden, 600 New Hampshire Avenue NW, Washington, DC 20037

Dear Mr. Ambassador: Last year, as a consequence of prior exchanges between us, I passed to you a draft Memorandum of Understanding (MOU) of Principles Governing Mutual Cooperation in the Defense Procurement Area. Since then, there has been communication between our representatives and yours, which has been appended to the MOU as a permanent part of the record. I have the honor to transmit the MOU herewith in two original copies, which I have signed. I would be grateful if you would arrange to have one of the originals signed on behalf of the Government of Sweden and returned to me.

It is my earnest desire that this agreement prove useful and to our mutual benefit in opening the way to reciprocal opportunities in defense trade.

Sincerely,

Ambassador Ulf Dinkelspiel,
Ministry of Foreign Affairs, Stockholm,
Sweden

Dear Ulf: Before our two governments enter into the Memorandum of Understanding "Relating to the Principles Governing Mutual Cooperation in the Defense Procurement Area", I believe it advisable to clarify the purpose of certain language in the MOU.

First, you will note that the Preamble to the MOU states it to be our intention to "assure a long-term and equitable balance in reciprocal purchasing of defense equipment." Moreover, Article I, Paragraph 1, of the MOU also states that "Both Governments intend to achieve and maintain a long-term equitable balance in their exchanges of defense equipment. . . ."

This language is employed solely for the purpose of enabling the Department of Defense (DOD) to waive Congressionally-imposed restrictions against procurement of foreign specialty metals, in the interest of fulfilling the intent of the MOU. The prohibition in question is currently found in Section 9011 of the Continuing Resolution on Appropriations, 1987, which provides, *inter alia*, that "No part of any appropriation contained in this Act . . . shall be available for the procurement of . . . specialty metals . . ." The same section, however, contains a proviso "that nothing herein shall preclude the procurement of specialty metals . . . when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements. . . ."

The language of the MOU quoted in the second paragraph above, taken in the context of the MOU as a whole, is employed for the purpose of making it possible for DOD to waive restrictions which would otherwise hinder the implementation of the MOU. With reference to the language quoted, however, the reference to "long-term equitable balance" does not mean it to be our purpose to assure that a purchase by one must be balanced by a purchase by the other of equivalent value. Nor does it mean that the cumulative value of purchases on one side will necessarily equal the cumulative value of purchases on the other. Rather, the MOU seeks to assure that each side removes barriers to reciprocal defense trade on a fair and equitable basis. Thus no commitment on the part of the United States to establish any particular ratio in defense trade is intended.

Second, with reference to Article I, Paragraph 5, of the MOU, the provision for waiving customs duties is intended to be reciprocal.

If your understanding of these two points regarding the MOU is in agreement with mine, please inform me so our letters may be attached to the Memorandum of Understanding as an appendix.

Sincerely yours,

Richard Perle.

Stockholm, February 3, 1987.

The Honorable Richard Perle, Assistant Secretary of Defense, Department of Defense, Washington, D.C. 20301

Dear Richard: I refer to your letter of January 16, 1987 concerning our discussion on a Memorandum of Understanding "Relating to the Principles Governing Mutual Cooperation in the Defense Procurement Area".

I wish to confirm that I am in full agreement with the contents of your letter. Thus I quite agree that the reference to "long-term equity balance" in the present text of the MoU is not to be seen as an assurance that a purchase by one must be balanced by a purchase by the other of equitable value, but rather that the MoU seeks to assure that each side removes barriers to reciprocal defense trade on a fair and equitable basis. I also agree that the provision for waiving customs duties in Article I, Paragraph 5, of the MoU is intended to be reciprocal.

I share your view that our letters should be attached to the Memorandum of Understanding as an appendix.

Sincerely yours,

Ulf Dinkelspiel.

[FR Doc. 88-22069 Filed 9-28-88; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Part 213 and Appendix N

[Defense Acquisition Circular (DAC) 86-12]

Federal Acquisition Regulation Supplement; Blanket Purchase Agreements and Update of Activity Address Numbers

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-12 amends the DoD FAR Supplement (DFARS) with respect to blanket purchase agreements and update of Appendix N. Appendix N has been updated to reflect changes in activity names or addresses.

EFFECTIVE DATE: March 31, 1988.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement

made by Defense Acquisition Circulars 86-1 through 86-5.

B. Public Comments

Public comments were not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors; or do not have a significant effect beyond agency internal operating procedures.

C. Regulatory Flexibility Act

These revisions are not "significant revisions" as defined in FAR 1.501-1; i.e., they do not alter the substantive meaning of any coverage in the DFARS having a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations, solicitation of agency and public views on these revisions is not required. Since such solicitation if not required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because these revisions do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 213 and Appendix N

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

March 31, 1988.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective March 31, 1988.

Defense Acquisition Circular (DAC) 86-12 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Appendix N—Activity Address Numbers

Appendix N has been updated to reflect changes in Activity Names or Addresses.

Item II—Correction to DAC #86-9—Blanket Purchase Agreements

DAC #86-9, Item IV, inadvertently deleted DFARS 213.204(b) in its entirety. The intent of the change was to delete only the first sentence with respect to

use of a blanket purchase agreement when a call exceeds \$25,000. The remainder of DFARS 213.204(b) is reinstated in this DAC.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Part 213 and Appendix N continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

2. Section 213.204 is added to read as follows:

§ 213.204 Purchase under blanket purchase agreements.

(b) BPA calls for subsistence are unlimited as to dollar value, however such actions over \$25,000 must satisfy the requirements of Part 6. BPA's may also be established with Federal Supply Schedule contractors and ADTS Schedule contractors consistent with the terms of the applicable contract schedule (see FAR 13.203-1(f)).

Appendix N to Chapter 2 [Revised]

3. Appendix N to Chapter 2 is revised to read as follows:

Appendix N—Activity Address Numbers

Activity Address Numbers are for use in conjunction with the Uniform Procurement Instrument Identification Numbering System as prescribed in subpart 4.70 of the DoD FAR Supplement. The six-character code is used in the first six positions of the Procurement Instrument Identification Number (PIIN). The two-character code is used in the first two positions of the Call/Order Serial Number.

For further information, see subpart 4.70 of the DoD FAR Supplement.

Activities coding procurement instruments shall use only those unique and significant codes assigned by their respective Department/Agency Activity Address Monitor(s). When required, activities shall also be assigned a two-position code. (Newly assigned numbers will be listed in future revisions to Appendix N.) Activity Address Monitors are as follows:

Army

HQDA (JDHQ-SV-W-P), Statistics and Information Management Branch, Chief, Procurement Statistics Division, Washington, DC 20310-0600.

Navy

Navy Accounting and Finance Center, (NAFC-624), Washington, DC 20390, ¹ (Six-Character Unit Identification Number only.)

Air Force

Hq USAF (RDCL), Directorate, Contracting and Manufacturing Policy, Washington, DC 20330-5040.

Defense Logistics Agency

Chief, Systems Branch (DLA-PPS), Procurement Division, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304-6100.

Marine Corps

Headquarters, U.S. Marine Corps, (Code LBO), Washington, DC 20380-0001, ¹ (Six-Character Unit Identification Number only.)

Other Defense Agencies

The following agencies will forward requests for Appendix N maintenance to HQDA (JDHQ-SV-W-P), Washington, DC 20310-0600.

Defense Mapping Agency

Director of Acquisition, Defense Mapping Agency, Washington, DC 20305-3000.

Defense Nuclear Agency

Chief, Contract Division, Defense Nuclear Agency, Washington, DC 20305-1000.

Defense Communications Agency

Chief, Logistics Management Office, Code 202, Defense Communications Agency, Washington, DC 20305-2000.

Department of the Army

DAAA03, B1—Pine Bluff Arsenal, Pine Bluff, AR 71601.

DAAA05, B2—USA Rocky Mountain Arsenal, Denver CO 80240.

DAAA08, B7—USA Rock Island Arsenal, Rock Island, IL 61299.

DAAA09, BA—USA Armament Materiel Readiness Command, Rock Island, IL 61299.

DAAA11—Iowa Army Ammunition Plant, Burlington, IA 52601.

DAAA19, B4—Lake City Army Ammunition Plant, Independence, MO 64056.

DAAA22, BV—USA Watervliet Arsenal, Watervliet, NY 12189.

DAAA27—Radford Army Ammunition Plant, Radford, VA 24141.

¹ The Navy and Marine Corps Activity Address Monitor for assignment of two-character call/serial numbers is: Office of the Assistant Secretary of the Navy (S&L) Room 536 Crystal Plaza 5 Washington, DC 20360-5000.

Requests for changes in either the six-character or the two-character codes will be submitted to the appropriate Activity Address Monitor in accordance with internal procedures. Activity Address Monitors shall refer requests for additions, deletions, or changes to their respective DAR Council Policy Member with a copy to Executive Agent, Defense Logistics Agency, DLA-PPS, Cameron Station, Alexandria, VA 22304-6100. The Executive Agent is responsible for maintaining the data base of six- and two-character code assignments and distributing the blocks of two-character codes to the Monitors for further assignment.

DAAA29, FV—USA Ammunition Plant, Hawthorne, NV 89415.

DAAA31, GJ—USA Ammunition Plant, McAlester, OK 74501.

DAAB07, BG—USA Communications and Electronics, Materiel Readiness Command, Procurement Directorate, Fort Monmouth, NJ 07703.

DAAB08—USA Communications and Electronics Command, Base Operations Procurement Branch, DRSEL-TC-C-BO, Fort Monmouth, NJ 07703.

DAAD01, B5—Yuma Proving Ground, Yuma, AZ 85364.

DAAD03, B6—Jefferson Proving Ground, Madison, IN 47250.

DAAD05, BM—Aberdeen Proving Ground, MD 21005.

DAAD07, BN—White Sands Missile Range, NM 88002.

DAAD09, BP—Dugway Proving Ground, Procurement Office, PO Box 545, Dugway, UT 84022.

DAAD10—HDQTRS, USA Test and Evaluation Command, Aberdeen Proving Ground, MD 21005.

DAAE07, BR—USA Tank-Automotive Command, Warren, MI 48090.

DAAG02, BH—Anniston Army Depot, Anniston, AL 36201.

DAAG06, ZR—Sierra Army Depot, ATTN: SDSSA-PMD-A, Herlong, CA 96113.

DAAG08, ZR—Sacramento Army Depot, Sacramento, CA 95813.

DAAG10, ZM—Sharpe Army Depot, Lathrop, CA 95331.

DAAG29, G2—USA Research Office, PO Box 12211, Research Triangle Park, NC 27709.

DAAG34, ZN—Letterkenny Army Depot, Chambersburg, PA 17201.

DAAG36, D2—New Cumberland Army Depot, New Cumberland, PA 17070.

DAAG38, ZS—Tobyhanna Army Depot, Tobyhanna, PA 18466.

DAAG46, D6—USA Materials and Mechanics Research Center, Arsenal Street, Watertown, MA 02172.

DAAG47, D7—Red River Army Depot, Texarkana, TX 75501.

DAAG48, BJ—USA Depot, Corpus Christi, TX 78419.

DAAG49, BK—Tooele Army Depot, Building 9, Tooele, UT 84074.

DAAG54, ZP—USA Electronics Materiel Readiness Activity, Vint Hill Farms Station, Warrenton, VA 22186.

DAAG60, G8—U.S. Army Military Academy, West Point, NY 10996.

DAAG99—USA Project Manager, SANG, APO New York 09038.

DAAH01, CC—HDQTRS, US Army Missile Command, Redstone Arsenal, AL 35809.

DAAH03, D8—P&C Division, USA Missile Command, Redstone Arsenal, AL 35809.

DAAJ04, C6—USA St. Louis Area Support Center, Granite City, IL 62040.

DAAJ09, BS, YY, ZQ—USA Troop Support and Aviation, Materiel Readiness Command, 4300 Goodfellow Blvd., St. Louis, MO 63120.

DAAK10, 2T—USA Armament R&D Command, Procurement Directorate, Dover, NJ 07801.

DAAK11, 2U—USA Armament R&D Command, Chemical/Ballistics

- Procurement Division, Edgewood Arsenal, Aberdeen Proving Ground, MD 21010-5423.
- DAAK20, 1Y—USA Electronics R&D Command, Fort Monmouth Procurement Office, Fort Monmouth, NJ 07703.
- DAAK21, D3—Harry Diamond Laboratories, 2800 Powder Mill Road, Adelphi, MD 20783.
- DAAK50, 1W—USA Aviation R&D Command, PO Box 209, St. Louis, MO 63120.
- DAAK51, D9—Applied Technology Laboratory, USA Research and Technology Laboratories, AVRADCOM, Fort Eustis, VA 23604.
- DAAK60, C5—USA Natick R&D Command, Natick, MA 01760.
- DAAK70, E1—USA Mobility Equipment R&D Command, Fort Belvoir, VA 22060.
- DAAK80, 2V—USA Communications R&D Command, Procurement Directorate, DRDCO-PC, Fort Monmouth, NJ 07703.
- DABT01, F6—US Army Aviation Center & Fort Rucker, ATTN: ATZQ-DI-PC, Fort Rucker, AL 36362.
- DABT02, 2A—US Army Military Policy/Chemical Schools/Training Center & Fort McClellan, ATTN: ATZN-DIP, Fort McClellan, AL 36205.
- DABT10, 2B—USA Infantry Center & Fort Benning, ATTN: ATZC-DIP, Columbus, GA 31905.
- DABT11, 2C—US Army Signal Center & Fort Gordon, ATTN: ATZH-DIP, Fort Gordon, GA 30905.
- DABT15, F9—US Army Soldier Support Center & Fort Benjamin Harrison, ATTN: ATZI-DI-P, Fort Benjamin Harrison, IN 46216.
- DABT19, 2D—US Army Combined Arms Center & Fort Leavenworth, ATTN: ATZL-DIP, Fort Leavenworth, KS 66027.
- DABT23, 2E—US Army Armor Center & Fort Knox, ATTN: ATZK-DI-P, Fort Knox, KY 40121.
- DABT31, 2F—US Army Training Center (Engineer) & Fort Leonard Wood, ATTN: ATZT-DI-PC, Fort Leonard Wood, MO 65473.
- DABT35, 2G—US Army Training Center & Fort Dix, ATTN: ATZDGD-G, Burlington, NJ 08640.
- DABT39, 2H—USA Field Artillery Center & Fort Sill, ATTN: ATZR-DIPC, Fort Sill, OK 73503.
- DABT43, 2J—Procurement Division, Bldg. 46, ATZE-DI-P, Carlisle Barracks, PA 17013.
- DABT47, 2K—US Army Training Center & Fort Jackson, ATTN: ATZJ-DIP, Fort Jackson, SC 29207.
- DABT51, 2L—Fort Bliss, PO Box 6078, ATZA-DIP, El Paso, TX 79906.
- DABT56, 2M—USA Engineer Center & Fort Belvoir, ATZA-DIP, Fort Belvoir, VA 22060.
- DABT57, 2N—US Army Transportation Center & Fort Eustis, ATTN: ATZF-DIO-CD, Fort Eustis, VA 23604.
- DABT58, 2P—Fort Monroe, ATTN: ATZG-DIC, Fort Monroe, VA 23651.
- DABT59, 2Q—US Army Quartermaster Center & Fort Lee, ATTN: ATZL-DIP, Fort Lee, VA 23081.
- DABT60—USA Training Support Center & Fort Eustis, ATTN: ATIC-LOC, Fort Eustis, VA 23604.
- DABT61—The Judge Advocate Generals School, USA, University of Virginia, Charlottesville, VA 22901.
- *DACA01, **DACW01, CK—US Engineer District, Mobile, PO Box 2288, Mobile, AL 36628.
- DACA03, DACW03, CL—USA Engineer District, Little Rock, PO Box 867, Little Rock, AR 72203.
- DACA05, DACW05, CM—USA Engineer District, Sacramento, 650 Capitol Mall, Sacramento, CA 95814.
- DACA06, DACW06, CN—USA Engineer Division, South Pacific, 630 Sansome Street, Room 1216, San Francisco, CA 94111.
- DACA07, DACW07, CP—USA Engineer District, San Francisco, 211 Main Street, San Francisco, CA 94105.
- DACA09, DACW09, CQ—USA Engineer District, Los Angeles, PO Box 2711, Los Angeles, CA 90053.
- DACA17, DACW17, CS—USA Engineer District, Jacksonville, PO Box 4970, Jacksonville, FL 32201.
- DACA19, DACW19, CU—USA Engineer Division, South Atlantic, 510 Title Bldg., 30 Pryor Street, SW., Atlanta, GA 30303.
- DACA21, DACW21, CV—USA Engineer District, Savannah, 200 East Saint Julian Street, Savannah, GA 31401.
- DACA22, DACW22, CW—USA Engineer Division, North Central, 536 South Clark Street, Chicago, IL 60605.
- DACA23, DACW23, CX—USA Engineer District, Chicago, 219 South Dearborn Street, Chicago, IL 60604.
- DACA25, DACW25, CD—USA Engineer District, Rock Island, Clock Tower Building, Rock Island, IL 61201.
- DACA27, DACW27, CY—USA Engineer District, Louisville, PO Box 59, Louisville, KY 40201.
- DACA29, DACW29, CZ—USA Engineer District, New Orleans, PO Box 60267, New Orleans, LA 70160.
- DACA31, DACW31, DA—USA Engineer District, Baltimore, PO Box 1715, Baltimore, MD 21203.
- DACA33, DACW33, DB—USA Engineer District, New England, 424 Trapelo Road, Waltham, MA 02154.
- DACA35, DACW35, DC—USA Engineer District, Detroit, 150 Michigan Avenue, PO Box 1027, Detroit, MI 48231.
- DACA37, DACW37, DD—USA Engineer District, St. Paul, 1210 USPO & Customs House, St. Paul, MN 55101.
- DACA38, DACW38, DE—USA Engineer District, Vicksburg, PO Box 60, Vicksburg, MS 39181.
- DACA39, DACW39, DF—USA Engineer Water-Ways Experiment Station, PO Box 631, Vicksburg, MS 39181.
- DACA40, DACW40, DG—USA Engineer Division, Lower Mississippi Valley, PO Box 80, Vicksburg, MS 39181.
- DACA41, DACW41, DH—USA Engineer District, Kansas City, 700 Federal Bldg., 601 East 12th Street, Kansas City, MO 64106.
- DACA43, DACW43, DJ—USA Engineer District, St. Louis, 210 North 12th Street, St. Louis, MO 63101.
- DACA45, DACW45, DK—USA Engineer District, Omaha, 6014 USPO and Courthouse, Omaha, NE 68102.
- DACA46, DACW46, DL—USA Engineer Division, Missouri River, PO Box 103, Downtown Station, Omaha, NE 68101.
- DACA47, DACW47, DM—USA Engineer District, Albuquerque, PO Box 1580, Albuquerque, NM 87103.
- DACA49, DACW49, DN—USA Engineer District, Buffalo, Foot of Bridge Street, Buffalo, NY 14207.
- DACA51, DACW51, CE—USA Engineer District, New York, 26 Federal Plaza, New York, NY 10007.
- DACA52, DACW52, DP—USA Engineer Division, North Atlantic, 90 Church Street, New York, NY 10007.
- DACA54, DACW54, DQ—USA Engineer District, Wilmington, 308 Custom House, Wilmington, NC 28402.
- DACA55, DACW55, DR—USA Engineer Division, Ohio River, PO Box 1159, Cincinnati, OH 45201.
- DACA56, DACW56, DS—USA Engineer District, Tulsa, 224 South Boulder, Tulsa, OK 74102.
- DACA57, DACW57, DT—USA Engineer District, Portland, PO Box 2496, Portland, OR 97208.
- DACA58, DACW58, DU—USA Engineer Division, North Pacific, 210 Custom House, Portland, OR 97209.
- DACA59, DACW59, DV—USA Engineer District, Pittsburgh, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.
- DACA60, DACW60, DW—USA Engineer District, Charleston, PO Box 905, Charleston, SC 29402.
- DACA61, DACW61, CF—USA Engineer Division, Philadelphia, Custom House, 2nd & Chestnut Streets, Philadelphia, PA 19106.
- DACA62, DACW62, DX—USA Engineer District, Nashville, PO Box 1070, Nashville, TN 37202.
- DACA63, DACW63, DY—USA Engineer District, Fort Worth, PO Box 17300, Fort Worth, TX 76102.
- DACA64, DACW64, DZ—USA Engineer District, Galveston, PO Box 1229, Galveston, TX 77551.
- DACA65, DACW65, EA—USA Engineer District, Norfolk, 803 Front Street, Norfolk, VA 23510.
- DACA66, DACW66, EB—USA Engineer District, Memphis, 668 Federal Office Building, Memphis, TN 38103.
- DACA67, DACW67, EC—USA Engineer District, Seattle, PO Box C-3755, Seattle, WA 98124.
- DACA68, DACW68, YW—USA Engineer District, Walla Walla, Building 602, City-County Airport, Walla Walla, WA 99362.
- DACA69, DACW69, CG—USA Engineer District, Huntington, 502 Eighth Street, Huntington, WV 25721.
- DACA70, DACW70, YX—USA Engineer Division, Southwestern, Main Tower Building, 1114 Commerce Street, Dallas, TX 75242.
- DACA72, DACW72, ZA—USA Coastal Engineering Research Center, Kingman Building, Fort Belvoir, VA 22060.
- DACA73, DACW73, CH—Office, Chief of Engineers (DAEN-ECP-C), Washington, DC 20314.
- DACA74, DACW74, ZB—Rivers and Harbors, Board of Engineers, TEMPO "C" Building,

*CA—Military.

**CW—Civil Works.

- Second & O Streets, SW., Washington, DC 20315.
- DACA75, DACW75, ZC—USA Engineer Division, Middle East, APO New York, NY 09038.
- DACA76, DACW76, ZD—USA Engineer Topographic Laboratories, Fort Belvoir, VA 22060.
- DACA78, DACW78—Rear Headquarters, USA Engineer Division, Middle East, PO Box 2250, Winchester, VA 22601.
- DACA79, DACW79—US Army Engineer District, Japan, APO San Francisco, CA 96343.
- DACA81, DACW81—US Army Engineer District, Far East, APO San Francisco, CA 96301.
- DACA84, DACW84, ZH—USA Engineer Division, Pacific Ocean, Building 230, Fort Shafter, HI 96858.
- DACA85, DACW85, ZJ—USA Engineer District, Alaska, PO Box 7002, Anchorage, AK 99510.
- DAC86, DACW86—USA Engineer District, Riyadh, APO New York, NY 09038.
- DACA87, DACW87, ZW—USA Engineer Division, Huntsville, PO Box 1600 West Station, Huntsville, AL 35807.
- DACA88, DACW88—USA Construction Engineering, Research Laboratory, PO Box 4005, Champaign, IL 61820.
- DACA89, DACW89, 1Z—USA Cold Regions Research, and Engineering Laboratory, PO Box 282, Hanover, NH 03755.
- DACA90, DACW90—USA Engineer Division, Europe, EUDPS-C, APO New York, NY 09757.
- DACA91, DACW91—Engineer Logistics Command, USA Engineer Division, Middle East, APO New York 09038.
- DACA93, DACW93—USA Engineer District, Al Batin, APO New York 09038.
- DACA94, DACW94—MX Program Agency (CEMPA), Norton AFB, CA 92409.
- DACA95, DACW95—Commander, Near East Project Office, APO New York 09672.
- DADA01—Letterman Army Medical Center, Attn: HSHH-LCP, Presidio of San Francisco, CA 94129.
- DADA03—Fitzsimons Army Medical Center, Attn: HSHG-DIO-C, Aurora, CO 80045.
- DADA09—William Beaumont Army Medical Center, Attn: HSHM-LOC-CO, El Paso, TX 79920.
- DADA11—Brooke Army Medical Center, Attn: HSHE-LO-PC, Fort Sam Houston, TX 78234.
- DADA13—Madigan Army Medical Center, Attn: HSHJ-LOC, Tacoma, WA 98431.
- DADA15—Walter Reed Army Medical Center, Attn: HSHL-LP, Washington, DC 20012.
- DADA16—Tripler Army Medical Center, Attn: HSHK-LD-PC, Tripler AMC, HI 96859.
- DAEA08, E4—HQ Fort Ritchie, CCNJ-DIO-PC, Fort Ritchie, MD 21719.
- DAEA16, E7—5th Signal Command, DCSLOG, Attn: CCE-LGC, APO New York, NY 09056.
- DAEA18, BL—USAG Directorate of Contracting, Attn: ASH-DOC, PO Box 748, Fort Huachuca, AZ 85613-0748.
- DAEA20, E8—1st Signal Brigade, USACC, Contract Administration Branch S4, APO San Francisco, CA 96301.
- DAHA01, 9B—USP&FO for Alabama, PO Box 3715, Montgomery, AL 36193.
- DAHA02—USP&FO for Arizona, 1815 North 52nd Street, Phoenix, AZ 85008.
- DAHA03, 9D—USP&FO for Arkansas, PO Box 677, North Little Rock, AR 72115.
- DAHA04, 9N—USP&FO for California, PO Box G, Camp San Luis Obispo, CA 93406.
- DAHA05—USP&FO for Colorado, Camp George West, Golden, CO 80401.
- DAHA06—USP&FO for Connecticut, National Guard Armory, Hartford, CT 06115.
- DAHA07, 9A—USP&FO for Delaware, Grier Building, 1161 River Road, New Castle, DE 19720.
- DAHA08—USP&FO for Florida, State Arsenal, St. Augustine, FL 32084.
- DAHA09—USP&FO for Georgia, PO Box 17882, Atlanta, GA 30318.
- DAHA10—USP&FO for Idaho, PO Box 1098, Boise, ID 83701.
- DAHA11, 9E—USP&FO for Illinois, Camp Lincoln, 1301 North McArthur Blvd., Springfield, IL 62702.
- DAHA12—USP&FO for Indiana, PO Box 41348, Indianapolis, IN 46241.
- DAHA13, 9L—USP&FO for Iowa, Camp Dodge RR#1, Grimes, IA 50111.
- DAHA14—USP&FO for Kansas, Kansas State Arsenal, 27th and Kansas Avenue, Topeka, KS 66601.
- DAHA15—USP&FO for Kentucky, Boone National Guard Center, Frankfort, KY 40601.
- DAHA16—USP&FO for Louisiana, HQ Building, Jackson Barracks, New Orleans, LA 70146.
- DAHA17—USP&FO for Maine, Camp Keyes, Augusta, ME 04330.
- DAHA18—USP&FO for Maryland, State Military Reservation, PO Box 206, Havre de Grace, MD 21078.
- DAHA19—USP&FO for Massachusetts, NC Supply Depot, 143 Speen Street, Natick, MA 01760.
- DAHA20, 9F—USP&FO for Michigan, PO Box 958, Lansing, MI 48904.
- DAHA21, 9K—USP&FO for Minnesota, Camp Ripley, Little Falls, MN 56345.
- DAHA22—USP&FO for Mississippi, PO Box 4447, Fondren Station, Jackson, MS 39216.
- DAHA23, 9H—USP&FO for Missouri, 1715 Industrial Avenue, Jefferson City, MO 65101.
- DAHA24, 9P—USP&FO for Montana, State Arsenal Building, PO Box 1157, Helena, MT 59601.
- DAHA25—USP&FO for Nebraska, 1234 Military Road, Lincoln, NE 68508.
- DAHA26—USP&FO for Nevada, 2601 South Carson Street, Carson City, NV 89701.
- DAHA27—USP&FO for New Hampshire, State Military Reservation, Concord, NH 03301.
- DAHA28—USP&FO for New Jersey, PO Box 2000, Trenton, NJ 08607.
- DAHA29—USP&FO for New Mexico, PO Box 4277, Santa Fe, NM 87501.
- DAHA30—USP&FO for New York, Building 4, State Campus, Albany, NY 12226.
- DAHA31—USP&FO for North Carolina, PO Box 26328, Raleigh, NC 27611.
- DAHA32—USP&FO for North Dakota, PO Box 1817, Bismarck, ND 58501.
- DAHA33, 9M—USP&FO for Ohio, 2811 W. Granville, Rd., Attn: AGOH-PF-PC, Worthington, OH 43085.
- DAHA34, 9J—USP&FO for Oklahoma, 3501 Military Circle, NE., Oklahoma City, OK 73511.
- DAHA35—USP&FO for Oregon, 2150 Fairgrounds Road, NE., Salem, OR 97310.
- DAHA36—USP&FO for Pennsylvania, c/o Dept. of Military Affairs, IGMR, Annville, PA 17003.
- DAHA37—USP&FO for Rhode Island, 51 Stenton Avenue, Providence, RI 02906.
- DAHA38—USP&FO for South Carolina, PO Box 1090, Columbia, SC 29202.
- DAHA39—USP&FO for South Dakota, Camp Rapid, Rapid City, SD 57701.
- DAHA40—USP&FO for Tennessee, PO Box 40748, Nashville, TN 37204.
- DAHA41, 9C—USP&FO for Texas, PO Box 5218 WAS, Austin, TX 78763.
- DAHA42—USP&FO for Utah, PO Box 8000, Salt Lake City, UT 84108.
- DAHA43—USP&FO for Vermont, Camp Johnson, Bldg. 1, Winooski, VT 05404.
- DAHA44—USP&FO for Virginia, 401 East Main Street, Richmond, VA 23219.
- DAHA45—USP&FO for Washington, Camp Murray, Tacoma, WA 98430.
- DAHA46—USP&FO for West Virginia, Buckhannon, WV 26201.
- DAHA47, 9G—USP&FO for Wisconsin, Camp Douglas, WI 54618.
- DAHA48—USP&FO for Wyoming, PO Box 1709, Cheyenne, WY 82001.
- DAHA49—USP&FO for District of Columbia, 2001 East Capitol Street, Washington, DC 20003.
- DAHA50—USP&FO for Hawaii, Fort Ruger, Honolulu, HI 96816.
- DAHA51—USP&FO for Alaska, PO Drawer 8989, Anchorage, AK 99508.
- DAHA70—USP&FO for Puerto Rico, PO Box 3786, San Juan, PR 00904.
- DAHA72—USP&FO For Virgin Islands, PO Box 1050, Christiansted, St. Croix, VI 00820.
- DAHA74—USP&FO for Guam, Dept. of Military Affairs, PO Box GC, Agana, Guam 96910.
- DAHA90—National Guard Bureau, Washington, DC 20310.
- DAHC06—Hq. US Army Computer Systems Command, Fort Belvoir, VA 22060.
- DAHC21, G3—Eastern Area, MTMC, Attn: MTE-AQ, Bayonne, NJ 07002.
- DAHC23, G4—Commander, Western Area, MTMC, Attn: MTW-AQ, Oakland Army Base, Oakland, CA 94626.
- DAHC24—HDQTRS, Military Traffic Management Command, Contract Operation Office, Attn: MT-ASO, Washington, DC 20315.
- DAHC25—Directorate of Personal Property, MTMC, Washington, DC 20315.
- DAHC26, 1X—USA Computer Systems Selection and Acquisition Agency (USACSSA-CD), Hoffman Building, 2461 Eisenhower Avenue, Alexandria, VA 22331.
- DAHC30—HDQTRS, Military District of Washington, Attn: HCA Staff Office, Bldg. 15, Cameron Station, Alexandria, VA 22314.
- DAHC31—The Adjutant General Center, Army Publication Directorate, DAAG-PAR-C, Hoffman Building, Alexandria, VA 22331.

- DAHC32—National Defense University, Attn: Contracting Officer, Fort Leslie J. McNair, Washington, DC 20310.
- DAHC34—Superintendent, Arlington National Cemetery, Arlington, VA 22211.
- DAHC40—USA Troop Support Agency, Southeast Commissary Field Office, Fort Lee, VA 23801.
- DAHC41—USA Troop Support Agency, Northeast Commissary Field Office, Fort George G. Meade, MD 20755.
- DAHC42—USA Troop Support Agency, Midwest Commissary Field Office, Fort Sam Houston, TX 78234.
- DAHC43—USA Troop Support Agency, Western Commissary Field Office, Fort Lewis, WA 98433.
- DAHC44—Headquarters, USA Troop Support Agency, Fort Lee, VA 23801.
- DAHC61—USA Memorial Affairs Agency, Washington, DC 20315.
- DAHC75—U.S. Army Western Command, ACoS for Acquisition, Fort Shafter, HI 96858.
- DAHC77,CJ—USA Support Command, Hawaii, Contracts Division, DIO, Fort Shafter, HI 96858.
- DAJA01,9Q—Regional Contracting Office Vicenza, Attn: AEUCC-I, APO New York NY 09168.
- DAJA02,G5—Regional Contracting Office Seckenheim, Attn: AEUCC-S, APO New York, NY 09081.
- DAJA04,9R—Regional Contracting Office Fuerth, Attn: AEUCC-FU, APO New York, NY 09696.
- DAJA06,9S—Regional Contracting Office Stuttgart, Attn: AEUCC-ST, APO New York NY 09154.
- DAJA10,9U—Regional Contracting Office Augsburg, Attn: AEUCC-A, APO New York, NY 09178.
- DAJA16,8X—Regional Contracting Office Grafenwoehr, Attn: AEUCC-G, APO New York, NY 09114.
- DAJA23,9W—U.S. Army, Berlin, Attn: AEBA-PR, APO New York, NY 09742.
- DAJA25,9X—Regional Contracting Office Bremerhaven, Attn: AEUCC-BR, APO New York, NY 09069.
- DAJA37,G6—USAREUR Contrating Center, Attn: AEUCC-C, APO New York, NY 09710.
- DAJA45,9Y—Regional Contracting Office Burtonwood, Attn: AEUCC-BW, APO New York, NY 09075.
- DAJA61,9Z—Regional Contracting Office Benelux, Attn: AEUCC-B, APO New York, NY 09667.
- DAJA75—USA Pipeline Liaison Office, France, Attn: DAJA 75, APO New York, NY 09777.
- DAJA76,8V—Regional Contracting Office Frankfurt, Attn: AEUCC-F, Box #73, APO New York, NY 09710.
- DAJB03,F4—USA Korea Procurement Agency, APO San Francisco, CA 96301.
- DAKF01,1A—Presidio of San Francisco, Attn: AFZM-DI-PR, San Francisco, CA 94129.
- DALF03,F2—7th Infantry Division & Fort Ord, Attn: AFZW-DI-PC, P.O. Box 27, Fort Ord, CA 93941.
- DAKF04—National Training Center, Attn: AFZJ-DIC, General Delivery c/o Post Office, Fort Irwin, CA 92311.
- DAKF06,1C—4th Inf Div (Mech) & Fort Carson, Attn: AFZC-DI-A, Fort Carson, CO 80913.
- DAKF10,1D—24th Inf Div & Fort Stewart, Attn: AFZP-DIP, Fort Stewart, GA 31313.
- DAKF11,1E—Fort McPherson, Attn: AFZK-DI-P, Atlanta, GA 30330.
- DAKF15,1F—Fort Sheridan, Attn: AFZO-DI-C, Fort Sheridan, IL 60037.
- DAKF19,1G—1st Inf Div & Fort Riley, Attn: AFZN-DI-C, P.O. Box 2248, Fort Riley, KS 66442.
- DAKF23,1H—101st ABN Div (AAST) & Fort Campbell, Attn: AFZB-DI-PC, Fort Campbell, KY 42223.
- DAKF24,G1—5th Inf Div (Mech), Fort Polk, Attn: AFZX-DI, Fort Polk, LA 71459.
- DAKF27,1J—Fort George G. Meade, Attn: AFZI-DI-C, Fort George G. Meade, MD 20755.
- DAKF31,1K—Fort Devens, Attn: AFZD-DI-P, Fort Devens, MA 01433.
- DAKF36,1M—Fort Drum, Attn: AFZS-DI-P, Fort Drum, NY 13602.
- DAKF40,1N—XVIII ABN CORPS & Fort Bragg, Attn: AFZA-DI-C, Drawer 70120, Fort Bragg, NC 28306.
- DAKF44,1P—USA Garrison, Fort Indiantown Gap, Attn: AFZQ-DI-P, Annville, PA 17003.
- DAKF48,1Q—III CORPS & Fort Hood, Attn: AFZD-DI-CON, Fort Hood, TX 76544.
- DAKF49,1R—Fort Sam Houston, Attn: AFZG-DI-P, Fort Sam Houston, TX 78234.
- DAKF57,1T—I CORPS & Fort Lewis, Attn: AFZH-DIP, Fort Lewis, WA 98433.
- DAKF61,1U—Fort McCoy, Attn: AFZR-DI-P, Sparta, WI 54656.
- DAKF70,8U—HQ, 172d Infantry Brigade, Attn: AFZT-DI-D, P.O. Box 5-525, Fort Richardson, AK 99505.
- DAKF71,1V—HQ, 193d Infantry Brigade (Panama), Attn: AFZU-LSC, APO Miami 34004.
- DAMD17,B3—USA Medical Research and Development Command, Fort Detrick, Frederick, MD 21701.
- DASC60,CB—Ballistic Missile Defense Systems Command, P.O. Box 1500, Huntsville, AL 35807.
- Department of the Navy*
- N00013,MR—Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332.
- N00014,EE—Office of Naval Research, Arlington, VA 22217.
- N00019,EF—Naval Air Systems Command, Washington, DC 20361.
- N00023,4J—Commander, Naval Supply Systems Command, Washington, DC 20376.
- N00024,EH—Naval Sea Systems Command, Washington, DC 20360.
- N00025,EJ—Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332.
- N00030,EK—Strategic System Project Office, Department of the Navy, Washington, DC 20376.
- N00032,GU—Director of Contracts, Joint Cruise Missile Project, Washington, DC 20360.
- N00033,EL—Commander, Military Sealift Command, Washington, DC 20390.
- N00034,EM—U.S. Navy Finance Center, Cleveland, OH 44114.
- N00039,NS—Naval Electronic Systems Command, Washington, DC 20360.
- N00062,8A—Chief of Naval Education and Training, Code 013, NAS, Pensacola, FL 32508.
- N00072—Chief of Naval Reserve, Code 17, New Orleans, LA 70146.
- N00101,3R—Naval Air Station, South Weymouth, MA 02190.
- N00102,EN—Portsmouth Naval Shipyard, Portsmouth, NH 03801.
- N00104,EP,EQ—U.S. Navy Ships Parts Control Center, Mechanicsburg, PA 17055.
- N00105,IT—Naval Medical Clinic, NAVSHIPYD, Portsmouth, NH 03801.
- N00109,F1—U.S. Naval Weapons Station, Yorktown, VA 23491.
- N00112—U.S. Naval Hospital, Chelsea, MA 02150.
- N00123,ES—Commanding Officer, Naval Regional Contracting Center, Long Beach, CA 90822.
- N00124,M5—Naval War College, Newport, RI 02840.
- N00127,H1—Naval Air Station, Quonset Point, RI 02819.
- N00128,EU—Supply Department, Naval Administrative Command, U.S. Naval Training Center, Great Lakes, IL 60088.
- N00129,EV—U.S. Naval Submarine Base, New London, Groton, CT 06340.
- N00140,EX,LA—Commanding Officer, Naval Regional Contracting Center, Naval Base Bldg. No. 600, Philadelphia, PA 19112.
- N00146,QQ—Marine Corps Air Station, Cherry Point, NC 28533.
- N00148—Naval Air Station, New York, c/o Naval Air Station, Willow Grove, PA 19090.
- N00151,EY—Philadelphia Naval Shipyard, Philadelphia, PA 19112.
- N00153,NO—Governor, U.S. Naval Home, 01800 East Beach Blvd., Gulfport, MS 39501.
- N00158,3V—Naval Air Station, Willow Grove, PA 19090.
- N00161,FA—U.S. Naval Academy, Annapolis, MD 21402.
- N00163,FB—U.S. Naval Avionics Center, 21st and Arlington Avenue, Indianapolis, IN 46218.
- N00164,FC—U.S. Naval Weapons Support Center, Crane, IN 47522.
- N00166,LC—U.S. Naval Air Facility, Washington, DC 20390.
- N00167,FD—Naval Ship Research & Development Center, Washington, DC 20084.
- N00168,FE—National Naval Medical Center, Bethesda, MD 20014.
- N0017A—Atlantic Fleet Weapons Training Facility (Code 51), U.S. Naval Station, Box 3023, FPO Miami 34051.
- N00171,N5—HQ, Naval District Washington, Washington Navy Yard, Washington, DC 20374.
- N00173,FF—U.S. Naval Research Laboratory, Washington, DC 20390.
- N00174,FG—U.S. Naval Ordnance Station, Indian Head, MD 20640.
- N00181,FJ—Norfolk Naval Shipyard, Portsmouth, VA 23709.
- N00187,3J—U.S. Naval Public Works Center, Norfolk, VA 23511.
- N00188,H2—Naval Air Station, Norfolk, VA 23511.
- N00189,FK—U.S. Naval Supply Center, Norfolk, VA 23512.

- N00191, FL—Charleston Naval Shipyard, U.S. Naval Base, Charleston, SC 29408.
- N00193—Commanding Officer (Code 11), Naval Weapons Station, Charleston, SC 29408.
- N00196, 3K—Commanding Officer (Code 60), Naval Air Station, Atlanta, Marietta, GA 30060.
- N00197, FM—U.S. Naval Ordnance Station, Louisville, KY 40214.
- N00200, H3—U.S. Naval Station, Key West, FL 33040.
- N00203—Commanding Officer, Naval Aerospace & Regional Medical Center, Pensacola, FL 32512.
- N00204, FN—Naval Air Station (Code 19P10), Pensacola, FL 32508.
- N00205, FP—Naval Support Activity (Code N443), New Orleans, LA 70146.
- N00206—Naval Air Station, New Orleans, LA 70146.
- N00207, FQ—Naval Air Station, Jacksonville, FL 32212.
- N00213, H4—Naval Air Station, Key West, FL 33040.
- N00215, 3W—Naval Air Station (Code 60), Dallas, TX 75211.
- N00216, FR—Commanding Officer (Code 194), Naval Air Station, Bldg 10, Corpus Christi, TX 78419.
- N00221, K5—Mare Island Naval Shipyard, Vallejo, CA 94592.
- N00228, FU—U.S. Naval Supply Center, Oakland, CA 94625.
- N00231—Commanding Officer, Naval Regional Medical Clinic, Quantico, VA 22134.
- N00236, NX—Naval Air Station, Alameda, CA 94501.
- N00244, NW—U.S. Naval Supply Center, Naval Base, 937 North Harbor Drive, San Diego, CA 92132.
- N00246, H5—Naval Air Station, North Island, San Diego, CA 92135.
- N00247, HC—U.S. Naval Training Center, San Diego, CA 92133.
- N00249—Commanding Officer, Civil Engineer Support Officer, Naval Construction Battalion Center, Port Hueneme, CA 93043.
- N00250, FW—Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, NY 10305.
- N00251, FX—Puget Sound Naval Shipyard, Bremerton, WA 98314.
- N00253, FY—Commanding Officer, Naval Undersea Warfare Engineering Station, Keyport, WA 98345.
- N00267, MC—Commanding Officer, Navy Regional Medical Clinic, Key West, FL 33040.
- N00274—Naval Air Facility, Selfridge Air Force Base, Supply Department, Mt. Clemens, MI 48045.
- N00275, 3M—Naval Air Station, Glenview, IL 60026.
- N00276—Naval Air Station, Twin Cities, Minneapolis, MN 55450.
- N00278—Naval Air Station, Olathe, KS 66061.
- N00281, L9—Commanding Officer, Fleet Combat Training Center, Atlantic Dam Neck, Virginia Beach, VA 23461.
- N00285—Commanding Officer, Naval Regional Medical Clinic, Corpus Christi, TX 78419.
- N00288—U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.
- N00296, NY—Naval Air Station, Moffett Field, CA 94035.
- N00311, GA—Pearl Harbor Naval Shipyard, Box 400, Pearl Harbor, HI 96860.
- N00314, M7—Naval Submarine Base, Pearl Harbor, HI 96860.
- N00334, N6—Naval Air Station, Barbers Point, HI 96862.
- N00383, GB, NK, GC, NL, GD, NM—U.S. Navy Aviation Supply Office, 700 Robbins Avenue, Philadelphia, PA 19111.
- N00389, KL, MM—Contracting Officer (Code 192), U.S. Naval Station, Box 3002, FPO Miami 34051.
- N00406, GE—U.S. Naval Supply Center, Puget Sound, Bremerton, WA 98314.
- N00421, M8—Naval Air Test Center, Patuxent River, MD 20670.
- N00600, GG—Naval Regional Contracting Center, Washington Navy Yard, Washington, DC 20374.
- N00604, NQ—U.S. Naval Supply Center, Pearl Harbor, Pearl Harbor, HI 96860.
- N00612, GH—Commanding Officer, Naval Supply Center, RCD, Code 200M, Charleston, SC 29408.
- N00620, H6—Naval Air Station, Whidbey Island, Oak Harbor, WA 98277.
- N00639, H7—Commanding Officer, Naval Air Station, Memphis (84), Millington, TN 38054.
- N00651, H8—U.S. Naval Supply Depot, Subic Bay, Box 33, FPO San Francisco, CA 96651.
- N00743, 8N—Commanding Officer, U.S. Naval Communication Station, Box 3022, FPO Miami 34051.
- N00788—Commanding Officer, U.S. Naval Communication Unit, Washington (Cheltenham, MD), Washington, DC 20390.
- N00867, 8P—Commanding Officer, U.S. Naval Communication Station (NAVCOMMSTA), Box 5016, FPO Miami 34059.
- N00886, QB—U.S. Naval Communication Station, San Francisco, Rough and Ready Island, Stockton, CA 95203.
- N00950, 8R—U.S. Naval Communication Area, Master Station, EASTPAC, Wahiawa, HI 96786.
- N0428A, 3Q—Naval Air Station, Patuxent River, MD 20670.
- N0429A, 3A—Naval Air Station, Point Mugu, CA 93042.
- N0463A—Commanding Officer, Navy Experimental Diving Unit, NAVCOASTSYSCEN, Bldg. 321, Panama City, FL 32401.
- N0488A, HS—Navy Manpower Engineering Center Detachment, San Diego, CA 92147.
- N0597A, BD—Director, Naval Civilian Personnel Command, Southeast Region, Bldg A-67, Naval Base, Norfolk, VA 23511-6098.
- N0598A, BO—Director, Naval Civilian Personnel Command, Pacific Region, 801 North Randolph Street, Arlington, VA 22203-1927.
- N0604A, BT—Director, Naval Civilian Personnel Command, Northwest Region, 2890 North Main Street, Suite 301, Walnut Creek, CA 94596-2739.
- N0619A, 8E—Naval Health Sciences Education & Training Command, NAVMEDCOM NATCAPREG, Bethesda, MD 20814.
- N08939—U.S. Naval Mission to Venezuela, Caracas, Department of State, Washington, DC 20521.
- N09534—Chief, Military Assistance, Advisory Group, Peru, APO Miami 34031.
- N09550, 4G—U.S. Fleet Air Mediterranean, FPO New York, NY 09521.
- N30776, 4N—Naval Air Station, Kingsville Auxiliary Landing Field, Orange Grove Det., Orange, TX 77630.
- N30779, 3Z—U.S. Naval Auxiliary Landing Field, Goliad, TX 77963.
- N30829—Officer in Charge, U.S. Naval Support Activity Naples, Detachment Gaeta, Italy, FPO New York 09522.
- N30929—Commanding Officer, Navy Flight Demonstration Squadron, Naval Air Station, (Attn: Supply Officer), Pensacola, FL 32508.
- N31701, V8—Assistant Secretary of the Navy, (Shipbuilding & Logistics), Washington, DC 20360-5100.
- N31863—Director, Naval Audit Service, Capital Region, P.O. Box 1206, Falls Church, VA 22041.
- N32525, 8S—U.S. Naval Communication Detachment (Sigonella, Italy), FPO New York 09523.
- N32832, 7K—Naval Aviation Logistics Center, European Repair and Rework Activity Representative, Alverca, Portugal, APO New York, NY 09285.
- N32960, K2—U.S. Naval Support Unit, La Maddalena, Italy, FPO New York 09533.
- N33137—U.S. Navy Liaison Unit, Munich, Germany, APO New York 09108.
- N39096—U.S. Naval Liaison Officer, American Embassy, P.O. Box N-8197, Nassau, Bahamas, FPO New York 09559.
- N39167—Commanding Officer, NAVREOSPREGMEDCEN BR Clinic, Naval Air Station, Meridian, MS 39309.
- N39353, CV—Commanding Officer, Integrated Combat Systems Test Facility, San Diego, CA 92152.
- N41756, LE—Naval Engineering Logistics Office, Washington, DC.
- N42237, 7A—Commanding Officer, Naval Submarine Supp. Base, Code N411, Kings Bay, GA 31547.
- N44930, KN—Intra-Fleet Supply Support Operations Program, Norfolk, VA 23512.
- N44967, KP—Naval Sea Systems Command Detachment (PERA CSS), San Diego, CA 94124-2995.
- N45406, LD—Officer in Charge, Naval Sea Systems Command Detachment (PERA CV), Bremerton, WA 98310-0206.
- N46079—Military Sealift Command Office, Northern Europe, APO New York 09069-0006.
- N46656, NP—Telecommunication Management Detachment West, 937 North Harbor Drive, San Diego, CA 92132-5104.
- N46657, NT—Telecommunication Management Detachment Pacific, Wahiawa, HI 96786-3050.
- N46658, LQ—Telephone Management Detachment East, Wards Corner Executive Center, Suite 222, 138 E. Little Creek Road, Norfolk, VA 23505.
- N46659, KJ—Telephone Management Detachment Europe, FPO New York 09524.
- N46904, JO—Commanding Officer, Antisubmarine Warfare Group Atlantic, Bldg CEP 104, Naval Station, Norfolk, VA 23511-6495.

- N52885, LZ—Special Boat Unit 11, FPO San Francisco 96601-4517.
- N53825, GY—Naval Surface Force, US LANTFLT, Norfolk, VA 23511-6002.
- N55418, V5—U.S. Naval Support Force, Antarctica, Detachment Christchurch, Christchurch, New Zealand, FPO San Francisco 96690.
- N57012, GQ—Commander Naval Air Force, U.S. Atlantic Fleet, Naval Air Station, Norfolk, VA 23511.
- N57023, GT—Commander, Operational Test and Evaluation Force, Naval Base, Norfolk, VA 23511.
- N57032—U.S. Naval Air Facility, Mildenhall UK, FPO New York 09127.
- N57075—Commanding Officer, U.S. Naval Facility Argentina, FPO New York 09597.
- N57095, LH—Atlantic Fleet Headquarters Support Activity, CINLANTFLEET, Norfolk, VA 23511.
- N57100, LP—Naval Special Warfare Group One, Coronado, CA 92155.
- N60002—Commanding Officer, Naval Regional Medical Center, Memphis, Millington, TN 38054.
- N60028, QC—U.S. Naval Station, Treasure Island, San Francisco, CA 94130.
- N60036, QD—U.S. Naval Weapons Station, Concord, CA 94520.
- N60050, HD—Marine Corps Air Station, El Toro, Santa Ana, CA 92709.
- N60087, 3P—Naval Air Station, Brunswick, ME 04011.
- N60169, WO—Commanding Officer, Marine Corps Air Station, Beaufort, SC 29904.
- N60191, 4A—Naval Air Station, Oceana, Virginia Beach, VA 23460.
- N60200, 3G—Commanding Officer, Naval Air Station, Cecil Field, FL 32215.
- N60201, L7—Commanding Officer, Naval Station, P.O. Box M, Mayport, FL 32228.
- N60211, 3D—U.S. Naval Auxiliary Landing Field, Crows Landing, CA 95313.
- N60234, 4R—Naval Air Station, Saufley Field, Pensacola, FL 32508.
- N60241, 3X—Commanding Officer, Naval Air Station, Bldg. 2701, Kingsville, TX 78363.
- N60258, GK—Long Beach Naval Shipyard, Long Beach, CA 90801.
- N60259, H9—Naval Air Station, Miramar, CA 92145.
- N60268, MQ—Navy Recruiting District Chicago, Glenview, IL 60026-5200.
- N60376, 3Y—Commanding Officer, Naval Air Station, Chase Field, Beeville, TX 78103.
- N60482, WE—U.S. Naval Station, Adak, FPO Seattle, WA 98791.
- N60478, 3C—U.S. Naval Weapons Station, Earle Colts Neck, NJ 07722.
- N60495, 3T—Naval Air Station, Fallon, NV 89406.
- N60508, 4Q—Commanding Officer, Naval Air Station, Whiting Field, Milton, FL 32570.
- N60514, GL—Commanding Officer, U.S. Naval Station, Box 33, FPO New York, 09593.
- N60530, GM—U.S. Naval Weapons Center, China Lake, CA 93555.
- N60656, GN—U.S. Navy Commissary Store, Naval Station, Annapolis, MD 21402.
- N60663, GR—Officer in Charge, U.S. Navy Commissary Store, Naval Base, Bldg 2600, Great Lakes, IL 60088.
- N60666, GS—U.S. Navy Commissary Store, Naval Station, Key West, FL 33040.
- N60676, GX—U.S. Navy Commissary Store, Naval Air Station, Patuxent River, MD 20670.
- N60681, HA—U.S. Navy Commissary Store, Naval Station, San Diego, CA 92136.
- N60693, HB—U.S. Navy Commissary Store, Naval Base Pearl Harbor, Box 110, Pearl Harbor, HI 96860.
- N60701, 4M—U.S. Naval Weapons Station, Seal Beach, CA 90740.
- N60895, HF—U.S. Navy Commissary Store, Naval Air Station, Alameda, CA 94501.
- N60921, HG, FH—Commander, Naval Surface Weapons Center, Headquarters, Dahlgren, VA 22448.
- N60935, HH—U.S. Navy Commissary Store, Naval Air Station, Jacksonville, FL 32212.
- N60936, HJ—U.S. Navy Commissary Store, Naval Air Station, Pensacola, FL 32508.
- N60937, HK—U.S. Navy Commissary Store, Naval Support Activity, New Orleans, LA 70140.
- N60938, HL—U.S. Navy Commissary Store, Naval Air Station, Corpus Christi, TX 78419.
- N60939, HM—U.S. Navy Commissary Store, Naval Air Station, Memphis 32, Millington, TN 38054.
- N61115, HN—U.S. Navy Commissary Store, Naval Submarine Base, New London, Groton, CT 06340.
- N61119, HP—U.S. Naval Supply Depot, Guam, FPO San Francisco, CA 96630.
- N61165, NN—Supply Officer, Bldg NS46, Naval Station, Charleston, SC 29408-5000.
- N61173—U.S. Naval Station, 495 Summer Street, Boston, MA 02210.
- N61174, 7B—Naval Support Activity, Brooklyn, NY 11251.
- N61189—U.S. Naval Station, Philadelphia, PA 19112.
- N61217, HQ—U.S. Navy Commissary Store, Naval Station, Bermuda, FPO New York 09560.
- N61331, HR—Commanding Officer, Naval Coastal Systems Center, Panama City, FL 32407.
- N61337, HO—Commanding Officer, Naval Hospital, Beaufort, SC 29904.
- N61339, HT—Commanding Officer, Naval Training Equipment Center (N-601), Orlando, FL 32813.
- N61414, 4B—U.S. Naval Amphibious Base, Little Creek, Norfolk, VA 23521.
- N61466—Commander, Naval Base, Bldg NH48, Charleston, SC 29408.
- N61510, HU—U.S. Navy Commissary Store, Naval Station, Guam, Box 179, FPO San Francisco, CA 96630.
- N61533, HW—Naval Ship Research and Development Laboratory, Annapolis, MD 21402.
- N61564, FS—Naval Hospital, NAVBASE, Guantanamo Bay, Cuba 09593.
- N61602, HX—Morocco-U.S. Naval Training Command, FPO New York 09544.
- N61726, QL—Naval Submarine Medical Center, Naval Submarine Base, New London, Groton, CT 06340.
- N61751—U.S. Naval Medical Research Unit No. 3, Cairo, FPO New York 09527.
- N61762, HY—U.S. Naval Ordnance Missile Test Facility, White Sands Missile Range, NM 88002.
- N61894—Commanding Officer, Naval and Marine Corps Reserve Center, Armed Forces Reserve Center, Naval District Washington, Washington Navy Yard, Anacostia, Washington, DC 20374.
- N61910—Commanding Officer, Naval and Marine Corps Reserve Center, 2869 Central Avenue, Augusta, GA 30904.
- N61911—Commanding Officer, Naval Reserve Center, Naval Base, Bldg RTC-1, Charleston, SC 29408.
- N61912—Commanding Officer, Naval and Marine Corps Reserve Center, 513 Pickens Street, Columbia, SC 29201.
- N61913—Commanding Officer, Naval Reserve Center, 1680 Riverside Drive, P.O. Box 8115, Macon, GA 31208.
- N61915—Commanding Officer, Naval and Marine Corps Reserve Center, 274 Fifth Street NW., Atlanta, GA 30318.
- N61916—Commanding Officer, Naval Reserve Center, 2144 Lakeshore Drive, Wilmington, NC 28401.
- N61917—Commanding Officer, Naval and Marine Corps Reserve Center, 725 W. Sixth Street, Charlotte, NC 28202.
- N61919—Commanding Officer, Naval Reserve Center, 414 Fourth Avenue, Box 1539, Columbus, GA 31902.
- N61920—Commanding Officer, Naval Reserve Center, 721 Merriman Ave., Asheville, NC 28804.
- N61921—Commanding Officer, Naval & Marine Corps Reserve Center, Triad Armed Forces Reserve Center, 7838 McCloud Rd., Greensboro, NC 27409.
- N61923—Commanding Officer, Naval & Marine Corps Reserve Center, 2725 Western Blvd., Raleigh, NC 27606.
- N61926—Commanding Officer, Naval & Marine Corps Reserve Center, Box 44, Naval Air Station (NAS), Jacksonville, FL 32802.
- N61927—Commanding Officer, Naval Reserve Center, 2610 Tigertail Ave., Miami, FL 33133.
- N61929—Commanding Officer, Naval & Marine Corps Reserve Center, 595 N. Primrose Drive, Orlando, FL 32803.
- N61930—Commanding Officer, Naval Reserve Center, Bayboro Harbor, St. Petersburg, FL 33701.
- N61931—Commanding Officer, Naval Reserve Center, 2214 Ave. E, Riviera Beach, FL 33404.
- N61933—Commanding Officer, Naval Reserve Center, 1325 York Street, Tampa, FL 33602.
- N61934—Commanding Officer, Naval & Marine Corps Reserve Center, 12 Meadow Street, Chattanooga, TN 37405.
- N61935—Commanding Officer, Naval & Marine Corps Reserve Center, P.O. Box 1180, Gulfport, MS 39501.
- N61937—Commanding Officer, Naval Reserve Center, 100 Navy Drive, P.O. Box 1544, Fort Smith, AR 72901.
- N61938—Commanding Officer, Naval & Marine Corps Reserve Center, Tulsa (AFRC), 1101 North 6th, Suite 5, Broken Arrow, OK 74012.
- N61940—Commanding Officer, Naval & Marine Corps Reserve Center, 503 "B" Street, Ryan Airport, Baton Rouge, LA 70807.

- N61942—Commanding Officer, Naval & Marine Corps Reserve Center, 1101 Fourth Ave., SW, Bessemer, AL 35020.
- N61944—Commanding Officer, Naval & Marine Corps Reserve Center, State Fair Grounds, Shreveport, LA 71109.
- N61945—Commanding Officer, Naval & Marine Corps Reserve Center, P.O. Box 8485, Mobile, AL 36608.
- N61947—Commanding Officer, Naval & Marine Corps Reserve Center, 1650 Federal Drive, Montgomery, AL 36109.
- N61948—Commanding Officer, Naval & Marine Corps Reserve Center, P.O. Box 667, Alcoa Highway, Knoxville, TN 37901.
- N61949—Commanding Officer, Naval Reserve Center, Bldg. 845, Saufley Field, Pensacola, FL 32509.
- N61952—Commanding Officer, Naval Reserve Center, P.O. Box 1669, Tuscaloosa, AL 35401.
- N61954—Commanding Officer, Naval & Marine Corps Reserve Center, 5020 Lakeshore Drive, New Orleans, LA 70146.
- N61955—Commanding Officer, Naval Reserve Center, P.O. Box 821, Jackson, MS 39205.
- N61956—Commanding Officer, Naval Reserve Center, 4501 West Stone Drive, Kingsport, TN 37660.
- N61958—Commanding Officer, Naval Reserve Center, P.O. Box 1748, Stillwater, OK 74074.
- N61959—Commanding Officer, Naval & Marine Corps Reserve Center, 2309 Line Avenue, Amarillo, TX 79106.
- N61962—Commanding Officer, Naval Reserve Center, 2524 Avery Ave., Box 12487, Memphis, TN 38112.
- N61963—Commanding Officer, Naval Reserve Center, 4601 Fairview Drive, Austin, TX 78731.
- N61965—Commanding Officer, Naval Reserve Center, 5316 S. Douglas Blvd., Oklahoma City, OK 73115.
- N61967—Commanding Officer, Naval & Marine Corps Reserve Center, 1712 Surrey Street, Lafayette, LA 70508.
- N61968—Commanding Officer, Naval Reserve Center, 1902 Old Spanish Trail, Houston, TX 77054.
- N61970—Commanding Officer, Naval & Marine Corps Reserve Center, Memorial Park, Little Rock, AR 72205.
- N61971—Commanding Officer, Naval Reserve Center, Shelby Park, P.O. Box 60404, Nashville, TN 37206.
- N61972—Commanding Officer, Naval Reserve Center, 435 E. Gadsden St., P.O. Box 2367, Gadsden, AL 35903.
- N61973—Commanding Officer, Naval Reserve Center, 501 Casson Street, Alexandria, LA 71301.
- N61978—Commanding Officer, Naval Reserve Center, Naval Air Station, Corpus Christi, TX 78419.
- N61979—Commanding Officer, Naval & Marine Corps Reserve Center, Bldg. 193, Naval Air Station, Dallas, TX 75211.
- N61980—Commanding Officer, Naval & Marine Corps Reserve Center, 1313 Indiana Street, El Paso, TX 79930.
- N61982—Commanding Officer, Naval & Marine Corps Reserve Center, 311 E. Arsenal Street, San Antonio, TX 78204.
- N62021, 7V—Naval Amphibious Base, Coronado, CA 92155.
- N62154—Commanding Officer, Naval Reserve Center, 1407 Wheaton Street, Savannah, GA 31404.
- N62161, HZ—U.S. Navy Commissary Store, Rough and Ready Island, Stockton, CA 95203.
- N62190—Commanding Officer, Naval Research Laboratory, Underwater Sound Reference Detachment, P.O. Box 8337, Orlando, FL 32856.
- N62245—U.S. Naval Medical Field Research Laboratory, Camp Lejeune, NC 28542.
- N62247—Commanding Officer, Naval Reserve Center, 209 Pollard St. SW., Huntsville, AL 35801.
- N62248—Commanding Officer, Naval & Marine Corps Reserve Center, 2903 4th Street, Lubbock, TX 79415.
- N62254—Commander Fleet Activities, Okinawa, U.S. Naval Air Facility, Kadena, Box SU/CR, FPO Seattle 98770.
- N62257—Commanding Officer, Naval & Marine Corps Reserve Center, 1941 S. 3rd Street, Abilene, TX 79602.
- N62269, JC—Commander, U.S. Naval Air Development Center, Johnsville, Warminster, PA 18974.
- N62271, QE—U.S. Naval Postgraduate School, Monterey, CA 93940.
- N62306, 7C—Commanding Officer (Code 4410), Naval Oceanographic Office, National Space Technology Laboratory, Bay St. Louis, MS 39552.
- N62375—Commanding Officer, Naval & Marine Corps Reserve Center, 426 North Main Street, Greenville, SC 29601.
- N62376, 4K—Commanding Officer, U.S. Naval Air Propulsion Center, P.O. Box 7176, Trenton, NJ 08628.
- N62381, JG—Military Sealift Command, Atlantic Military Ocean Terminal, Building 42, Bayonne, NJ 07002.
- N62382—Military Sealift Command, Gulf Subarea, 4400 Dauphin Street, New Orleans, LA 70146.
- N62383, JH—Military Sealift Command, Pacific, Naval Supply Center, Oakland, CA 94625.
- N62387—Commander, Military Sealift Command (Code M10-3), 4228 Wisconsin Avenue, Washington DC 20016.
- N62395, JK—Navy Public Works Center, Mariana Island GUAM (U.S.), FPO San Francisco 96630-2937.
- N62404, JJ—Military Sealift Command, Far East, FPO Seattle 98760.
- N62412—Commanding Officer, Naval Recruiting District, 4525 Executive Park Dr., Montgomery, AL 36116.
- N62415—Commanding Officer, Naval Recruiting District, P.O. Box 2711, Columbia, SC 29202.
- N62416, NV—Navy Recruiting District Columbus, Room 609 Federal Bldg., 200 North High Street, Columbus, OH 44142-2474.
- N62419—Commanding Officer, Naval Recruiting District, Melrose Bldg., 1121 Walker Street, Houston, TX 77002.
- N62422—Commanding Officer, Naval Recruiting District, 2974 Woodcock Drive, Jacksonville, FL 32207.
- N62423—Commanding Officer, Naval Recruiting District, 301 Center Street, Little Rock, AR 72201.
- N62425—Commanding Officer, Naval Recruiting District, 1808 West End Ave., Suite 1312, Nashville, TN 37203.
- N62430—Commanding Officer, Naval Recruiting District, 1001 Navaho Drive, Raleigh, NC 27609.
- N62437—Commanding Officer, Naval Recruiting District, 918 So. Ervay Street, Dallas, TX 75201.
- N62442—Commanding Officer, Naval Recruiting District Atlanta, 612 Tinker Street, Suite C, Marietta, GA 30060.
- N62444—Commanding Officer (Code 602-2C), Naval Recruiting District, 4400 Dauphine Street, New Orleans, LA 70146.
- N62462—Naval Applied Science Laboratory, Brooklyn, NY 11251.
- N62467, JM—Commanding Officer, Southern Division, Naval Facilities Engineering Command (SOUTHNAVFACENGCOM), 2155 Eagle Drive, P.O. Box 10068, Charleston, SC 29411-0068.
- N62470, JN—Atlantic Division, Naval Facilities Engineering Command, Norfolk, VA 23511.
- N62471, N7—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Mid-Pacific, Pearl Harbor, HI 96860.
- N62472, JP—Northern Division, Naval Facilities Engineering Command, U.S. Naval Base, Philadelphia, PA 19112.
- N62474, JR—Western Division, Naval Facilities Engineering Command, San Bruno, CA 94006.
- N62477, JU—Chesapeake Division, Naval Facilities Engineering Command, Washington Navy Yard, Washington, DC 20390.
- N62431, N8—U.S. Naval Station, Bermuda, FPO New York 09560.
- N62507—Commanding Officer, U.S. Naval Air Facility, Atsugi, Japan, Box 3, FPO Seattle 98767.
- N62522, JV—Military Sealift Command, Europe, Box 3, FPO New York 09510-3700.
- N62535, HE—Marine Corps Air Station (HELO), Tustin, CA 92710.
- N62537—Military Sealift Command, Mediterranean Sub-Area, Box 23, FPO New York 09521-0600.
- N62538, K1—Military Sealift Command Office, Norfolk, Bldg Y100A, Norfolk, VA 23512.
- N62539—Military Sealift Command Office, United Kingdom, Box 29, FPO New York 09510-3700.
- N62566, 3F—Officer in Charge, U.S. Naval Fuel Depot, P.O. Box 9068, Jacksonville, FL 32208.
- N62573, K8—Marine Corps Air Facility, New River Plaza, Jacksonville, NC 28540.
- N62578, J2—Naval Construction Battalion Center, Davisville, RI 02854.
- N62583, J3—Naval Construction Battalion Center, Port Heuneme, CA 93041.
- N62585, K3—Commander, U.S. Naval Activities, UK, FPO New York 09510.
- N62588, NR—U.S. Naval Support Activity, Naples, FPO New York 09521.
- N62593—Director, Navy Publications & Printing Service Office, Southeast Div. 4400 Dauphine St., Unit 601-3-B, New Orleans, LA 70146.

- N62603—Commanding Officer, Fleet & Mine Warfare Training Center, Naval Base, Bldg 647, Charleston, SC 29408.
- N62604, J4—Commanding Officer, Naval Construction Battalion Center, Gulfport, MS 39501.
- N62613—Commanding Officer, U.S. Marine Corps Air Station, Iwakuni, Japan, FPO Seattle 98764.
- N62645, EG—Naval Medical Materiel Support Command, Bldg 1-9, Philadelphia, PA 19145.
- N62649, JY—U.S. Naval Supply Depot, Yokosuka, FPO Seattle 98762.
- N62651—Director, Naval Publications & Printing Service Detachment Office, Naval Education and Training Command, Pensacola, FL 32508.
- N62653—Director, Naval Publications & Printing Service Detachment Office, Bldg. 1628, Naval Base, Charleston, SC 29408.
- N62665, JQ—Supervisor of Shipbuilding, Conversion and Repair, USN, Barnes Building—6th Floor, 495 Summer Street, Boston, MA 02210.
- N62670, 8B—Supervisor of Shipbuilding, Conversion and Repair, USN, Drawer T, Mayport Naval Station, Jacksonville, FL 32228.
- N62673—Supervisor of Shipbuilding, Conversion and Repair, USN, Naval Base, Charleston, SC 29408.
- N62678, 8C—Supervisor of Shipbuilding, Conversion and Repair, USN, P.O. Box 215, Portsmouth, VA 23705.
- N62688, GW—Naval Station, Naval Base, Norfolk, VA 23511-6002.
- N62695—Auditor General of the Navy, P.O. Box 1206, Falls Church, VA 22041.
- N62706, JS—Navy Publications & Printing Service Office—Western Division Bldg. 154, San Diego, CA 92136-5148.
- N62735—Commander, U.S. Fleet Activities, Sasebo, Japan, FPO Seattle 98766.
- N62741, MB—Commanding Officer, Navy Supply Corps School, Code 60, Athens, GA 30606.
- N62742, KB—Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860.
- N62745—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Mediterranean, APO New York 09285.
- N62748—Commanding Officer, Naval & MARCORPS RESECN, 2100 N. New Road, Waco, TX 76707.
- N62755, J7—Commanding Officer, Navy Public Works Center, Pearl Harbor, HI 96860-5470.
- N62766, L1—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Guam, FPO San Francisco, CA 96630.
- N62786, ER—Supervisor of Shipbuilding, Conversion and Repair, USN, 574 Washington Street, Bath, ME 04530.
- N62789, LB—Supervisor of Shipbuilding, Conversion and Repair, USN, Groton, CT 06340.
- N62791, NU—Supervisor of Shipbuilding, Conversion and Repair, USN, Naval Station, Box 119, San Diego, CA 92136.
- N62793, 4T—Supervisor of Shipbuilding, Conversion and Repair, USN, Newport News, VA 23607.
- N62794, 7D—Supervisor of Shipbuilding, Conversion and Repair, USN, Flushing & Washington Avenues, Brooklyn, NY 11251.
- N62795, 7F—Supervisor of Shipbuilding, Conversion and Repair, USN, Pascagoula, MS 39567.
- N62798, 4X—Supervisor of Shipbuilding, Conversion and Repair, USN, San Francisco, CA 94135.
- N62799, 7M—Supervisor of Shipbuilding, Conversion and Repair, USN, Seattle, WA 98115.
- N62808, FZ—Public Works Center, Subic Bay, Luzon, Republic of the Philippines 96651-2900.
- N62810—Chief, Navy Section, Military Assistance Advisory Group, Taipei, Box 12, FPO San Francisco, CA 96268.
- N62832—U.S. Naval Activities, Rota, Spain, FPO New York 09540.
- N62836, L4—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Far East, Yokosuka, Box 61, FPO Seattle, WA 98762.
- N62841—Commanding Officer, Naval Ordnance Test Unit, Cape Canaveral FL 32920.
- N62844, KO—Naval Imaging Command, Washington Navy Yard, Washington, DC 20350-2000.
- N62852—Naval Electronic System Security Engineering Center, Naval Security Station, 3801 Nebraska Avenue, NW., Washington, DC 20390.
- N62861, KD—Naval Plant Representative Office, General Dynamics, PO Box 2505, Pomona, CA 91766.
- N62863, K4—U.S. Naval Station, Rota, Spain, FPO New York 09540.
- N62864, L2—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Southwest Pacific, APO San Francisco, CA 96528.
- N62892—Commanding Officer, Naval Security Group Activity, Site "B", Card Sound Road, Homestead, FL 33039.
- N62894—Commander, U.S. Naval Forces, Korea, APO San Francisco, CA 96301.
- N62907, KG—Naval Plant Representative Office, Applied Physics Laboratory, Johns Hopkins Road, Laurel, MD 20810.
- N62908, 8D—Naval Weapons Engineering Support Activity, Washington Navy Yard, Washington, DC 20374.
- N62913—Commander, Naval Recruiting Area Three, 451 College Street, P.O. Box 4887, Macon, GA 31208.
- N62917, ML—Commander, Navy Recruiting Area Seven, 1499 Regal Row, Suite 501, Dallas, TX 75247.
- N62921, KH—Naval Plant Representative Office (Special Projects), Lockheed Missiles & Space Co., PO Box 504, Sunnyvale, CA 94088.
- N62922, 7W—Resident Officer in Charge of Construction, Pacific, Department of the Navy, PO Box 418, San Bruno, CA 94067.
- N62938, KK—Naval Plant Representative Office, Grumman Aerospace Corp., Bethpage, L.I., NY 11714.
- N62940, KM—Naval Plant Representative, Naval Plant Representative Office, Rockwell International Corp., 4300 East 5th Avenue, P.O. Box 1259, Columbus, OH 43218.
- N62974, JB—Marine Corps Air Station, Yuma, AZ 85364.
- N62990, L3—Supervisor of Shipbuilding, Conversion and Repair, USN, PO Box 26, Sturgeon Bay, WI 54235.
- N62995, 4H—U.S. Naval Air Facility, Sigonella, FPO New York 09523.
- N63005—Commanding Officer, Administrative Support Unit, Bahrain, FPO New York 09526.
- N63015, 7Y—Naval Education and Training Support Center, Pacific Fleet Station PO Bldg, San Diego, CA 92132.
- N63028, U2—Polaris Missile Facility Atlantic, Charleston, SC 29408.
- N63032, KS—U.S. Naval Station, Keflavik, FPO New York 09571.
- N63038, 8M—U.S. Naval Communication Unit, Cutler, East Machias, ME 04630.
- N63042, NZ—Naval Air Station, Lemoore, CA 93245.
- N63043, 3S—Commanding Officer, Naval Air Station, Meridian, MS 39301.
- N63051—Commanding Officer, Naval Investigative Service Office, Naval Base, Bldg NH 53, Charleston, SC 29408.
- N63053—Commanding Officer, Naval Investigative Service Office, P.O. Box 6438, New Orleans, LA 70174.
- N63073—U.S. Naval Security Group Activity RAF, Edzell UK, FPO New York 09518.
- N63080, KT—U.S. Navy Commissary Store, Chinhae, FPO Seattle, WA 98769.
- N63082—Commanding Officer, Naval Technical Training Center, Corry Station (Code 4460), Pensacola, FL 32511.
- N63105, 4W—Naval Air Systems Command Representative, Atlantic, U.S. Naval Air Station, Norfolk, VA 23511.
- N63110—Commanding Officer, Chief of Naval Air Training (Code N-73), Naval Air Station, Corpus Christi, TX 78419.
- N63111—Commanding Officer, Chief of Naval Technical Training, Naval Air Station, Memphis, Millington, TN 38054.
- N63124—Supervisor of Shipbuilding, Conversion and Repair, USN, New Orleans, LA 70146.
- N63134, 7R—Fleet Numerical Oceanography Center, Monterey, CA 93940.
- N63136—Navy Section, U.S. Military Group, Argentina, Buenos Aires, Dept. of State, Washington, DC 20521.
- N63143, 8K—U.S. Naval Communication Station, (Keflavik, Iceland), Box 22, FPO New York 09571.
- N63152, GZ—Fleet Combat Direction Systems Support Activity, San Diego, CA 92147-5081.
- N63165, 7U—Navy Regional Data Automation Center, Washington, Washington Navy Yard, Washington, DC 20374.
- N63182, 8T—U.S. Naval Communication Station, (Rota, Spain), FPO New York 09539.
- N63204, KV—Naval Plant Representative Office, Goodyear Aerospace Corp., Akron, OH 44305.
- N63205, KW, QM—Naval Air Engineering Center Detachment, GSE, Naval Plant Representative Office, Vought Corporation, P.O. Box 5907, Dallas, TX 75222.
- N63212—Commanding Officer, NROTC Unit, University of Texas at Austin, Austin, TX 78712.

- N63219—Commanding Officer, NROTC Unit, Rice University, P.O. Box 1892, Houston, TX 77001.
- N63228—Commanding Officer, NROTC Unit, Tulane University, New Orleans, LA 70118.
- N63229—Commanding Officer, NROTC Unit, University of Oklahoma, Norman, Oklahoma 73019.
- N63273, 4S—Fleet Combat Direction Systems Support Activity, Dam Neck, Virginia Beach, VA 23461.
- N63274, 4F—Naval Electronic Systems Engineering Center, Vallejo, CA 94592.
- N63282, KZ—Naval Plant Representative Office, Lockheed Aircraft Corp., Burbank, CA 91503.
- N63287, LB—Naval Plant Representative Office, McDonnell-Douglas Corp., Douglas Aircraft Company, Aircraft Div., Long Beach, CA 90801.
- N63290, RO—Commanding Officer, Combat Systems Technical Schools Command, Mare Island, Vallejo, CA 94592.
- N63296—Commanding Officer, NROTC Unit, Auburn University, Auburn, AL 36830.
- N63299—Commanding Officer, NROTC Unit, Duke University, Durham, NC 27706.
- N63301—Commanding Officer, NROTC Unit, Georgia Tech, Atlanta, GA 30313.
- N63307—Commanding Officer, NROTC Unit, University of Mississippi, Box 69, University, MS 38677.
- N63308—Commanding Officer, NROTC Unit, University of North Carolina, Chapel Hill, NC 27515.
- N63313—Commanding Officer, NROTC Unit, University of South Carolina, Columbia, SC 29208.
- N63315—Commanding Officer, NROTC Unit, Vanderbilt University (Westside Hall), Nashville, TN 37240.
- N63325, 7X—Naval Education & Training Support Center, Atlantic, Bldg. Z-86, Naval Station, Norfolk, VA 23511.
- N63331, LF—Naval Plant Representative Office, United Aircraft Corp., Sikorsky Aircraft Div., Stratford, CT 06497.
- N63339, LL—U.S. Navy Commissary Store, Naval Station, Adak, FPO Seattle, WA 98791.
- N63340, LM—U.S. Navy Commissary Store, Naval Station, Argentia, FPO New York 09597.
- N63341, LN—U.S. Navy Commissary Store, Naval Auxiliary Air Station, Chase Field, Beeville, TX 78102.
- N63344, LR—U.S. Navy Commissary Store, Naval Station, Charleston, SC 29408.
- N63345, LS—U.S. Navy Commissary Store, Naval Base, Guantanamo Bay, FPO New York 09598.
- N63346, LT—U.S. Navy Commissary Store, Naval Station, Keflavik, FPO New York 09571.
- N63348 LV—U.S. Navy Commissary Store, Naval Auxiliary Air Station, Kingsville, TX 78364.
- N63349, LW—U.S. Navy Commissary Store, Naval Air Station, Lemoore, CA 93246.
- N63350, 3L—U.S. Navy Commissary Store Region UK, Dunstable, England, FPO New York 09510.
- N63351, LY—U.S. Navy Commissary Store, Naval Station, Long Beach, CA 90802.
- N63352, KE—U.S. Navy Commissary Store, Naval Auxiliary Air Station, Meridian, MS 39301.
- N63353, MA—Officer in Charge, U.S. Navy Commissary Store Region, Naval Support Activity, Naples, FPO New York 09521.
- N63356, MD—U.S. Navy Commissary Store, Naval Station, Roosevelt Roads, FPO New York 09551.
- N63357, ME—U.S. Navy Commissary Store, Naval Station, Rota, FPO New York 09540.
- N63362, MK—Officer in Charge, U.S. Navy Commissary Store Region, Subic Bay, Philippines, P.O. Box 28, FPO San Francisco, CA 96651.
- N63365, MN—U.S. Navy Commissary Store Region, Yokosuka, Japan, Box 33, FPO Seattle, WA 98762.
- N63367, MP—Officer in Charge, U.S. Navy Commissary Store Div., Navy Resale System Field Support Office, Norfolk, VA 23511.
- N63369—Military Sealift Command Office, Benelux, APO New York 09159.
- N63387, JD—U.S. Naval Public Works Center, Naval Base, San Diego, CA 92136.
- N63394, L6—Naval Ship Weapon Systems Engineering Station, Port Hueneme, CA 93043.
- N63395, 8L—U.S. Naval Communication Station, (Thurso, Caithness, UK), FPO New York 09516.
- N63402, K7—Commanding Officer, Strategic Weapons Facility, Pacific, Bremerton, WA 98383.
- N63408, HV—Navy Material Transportation Office, Norfolk, VA 23511-6691.
- N63410, KA—Navy Manpower and Material Analysis Center, Atlantic, Norfolk, VA 23511.
- N63427, 8F—U.S. Naval Communication Station, Harold E. Holt, Exmouth, Western Australia, FPO San Francisco, CA 96680.
- N63439, K9—Naval Ophthalmic Support and Training Activity, Yorktown, VA 23690.
- N63482—Commanding Officer, Naval & MARCORPS RESCEN, 2910 Roberts Ave., Tallahassee, FL 32304.
- N63821—Officer in Charge, Naval Underwater Systems Center, AUTEC Andros Range Detachment, Andros Island, Bahama Islands, FPO New York 09559.
- N63886, 8Q—U.S. Naval Security Group Activity (Adak, AK) FPO Seattle, WA 98777.
- N64267, M9—Naval Weapons Station, Seal Beach Detachment, Fleet Analysis Center, Coronado Annex, Coronado, CA 91720.
- N64281, 3U, KX—Commanding Officer, Naval Sea Combat Systems Engineering Station, Naval Station, Norfolk, VA 23511.
- N64356, KF—Commanding Officer, Naval Administrative Command, Armed Forces Staff College, Norfolk, VA 23511-6097.
- N64980—Officer in Charge, U.S. Naval Aviation Weapons Facility, Detachment Machrinhanish, UK, FPO New York 09515.
- N64981—Commanding Officer, U.S. Naval Aviation Weapons Facility, St. Mawgan UK, FPO New York 09511.
- N65113, EZ—Navy Public Works Center, Bldg. 1A, Great Lakes, IL 60088-5600.
- N65114—Commanding Officer, Navy Public Works Center, Naval Air Station, Pensacola, FL 32508.
- N65116, MZ—Officer in Charge, Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Washington Navy Yard, Washington, DC 20374-2001.
- N65117, NJ, MO—Naval Plant Representative Office (Strategic Systems Project Office), General Electric Ordnance Systems, 100 Plastics Avenue, Pittsfield, MA 01201.
- N65146, 7E—Procurement Branch, OP-09B31, Office of the Chief of Naval Operations Support Activity, Washington, DC 20350.
- N65198, 3H—Naval Administrative Unit, 550 First Street, Idaho Falls, ID 83401.
- N65202—Supervisor of Shipbuilding, Conversion and Repair, USN, Box 400, Pearl Harbor, HI 96860.
- N65227, NH—Naval Plant Representative Office, Sperry Rand Corp., Great Neck, L.I., NY 11020.
- N65236, V7—Naval Electronic Systems Engineering Center, 4600 Goer Road, North Charleston, SC 29406.
- N65428—Commanding Officer, U.S. Naval Hospital, FPO Miami 34051.
- N65440, 4V—Officer in Charge, U.S. Navy Commissary Store, Exmouth, Western Australia, FPO San Francisco 96680.
- N65492—Commanding Officer, Naval Regional Medical Center, Fiscal & Supply Service, Code 32C, Orlando, FL 32813.
- N65497, 4U—U.S. Commissary Store Division, Field Support Office, Auburn, WA 98001.
- N65576—Navy Space Systems Activity, PO Box 92960, Worldway Postal Center, Los Angeles, CA 90009.
- N65580, M2—Naval Electronic Systems Engineering Center, PO Box 55, Portsmouth, VA 23705.
- N65584, EW, 3E, KU, 3B—Naval Electronic Systems Engineering Center, PO Box 80337, Building #4, Code 104, San Diego, CA 92138.
- N65870, M4—Supervisor of Shipbuilding, Conversion and Repair, USN, Long Beach Naval Shipyard, Long Beach, CA 90822.
- N65886—Commanding Officer, Naval Air Rework Facility, Naval Air Station, Jacksonville, FL 32212.
- N65888, ED—Naval Air Rework Facility, North Island, San Diego, CA 92135.
- N65889—Commanding Officer, Naval Air Rework Facility, Naval Air Station, Code 56000, Pensacola, FL 32508.
- N65912, GP—Commanding Officer, Naval Sea Support Center, Atlantic, St. Juliens Creek Annex, Portsmouth, VA 23702.
- N65913, 7L—Naval Sea Support Center, Pacific, San Diego, CA 92138.
- N65918, FT—Shore Intermediate Maintenance Activity, Naval Station, San Diego, CA 92136-5000.
- N65926—Officer in Charge, Naval Underwater Systems Center Detachment, AUTEC, West Palm Beach Detachment, West Palm Beach, FL 33402.
- N65928, N3—Naval Training Center, Orlando, FL 32813.
- N65980—Naval Electronic Systems Engineering Activity, St. Inigo, MD 20684.
- N65995—Officer in Charge, U.S. Naval Activities UK, Detachment Holy Loch, FPO New York 09514.
- N66001, 7N—Naval Ocean Systems Center, San Diego, CA 92152.
- N66021, 7G—Fleet Air, Western Pacific, FPO Seattle, WA 98767.
- N66032, LK—Automatic Data Processing Selection Office, Building 218, Washington Navy Yard, Washington, DC 20374.

- N66074—Commanding Officer, NROTC Unit, Prairie View A&M University, Prairie View, TX 77445.
- N66604, N4—Naval Underwater Systems Center, Newport, RI 02840.
- N66691, 4P—Commanding Officer, U.S. Naval Support Activity, Souda Bay, Crete, Greece, FPO New York 09528.
- N66715, VJ—Commander, Naval Recruiting Command, Washington, DC 22203-1191.
- N66753—Commanding Officer, NROTC Unit, Jacksonville University, Jacksonville, FL 32211.
- N66754—Commanding Officer, U.S. Naval Security Group Activity, FPO Miami 34053.
- N66809—Commanding Officer, NROTC Unit, Savannah State College, Savannah, GA 31404.
- N66810—Commanding Officer, NROTC Unit, Southern University and A&M College, Baton Rouge, LA 70813.
- N66818, JX—Commanding Officer, Naval Regional Medical Center, Portsmouth, VA 23708.
- N66833—Commanding Officer, U.S. Naval Station Panama Canal, FPO Miami 34061.
- N66863—Commanding Officer, Naval Biodynamics Laboratory, 13800 Old Gentilly Road, Michoud Assembly Facility, New Orleans, LA 70189.
- N66890, LJ—Naval Station, Mare Island, Supply and Fiscal Code 90, Bldg. 851, Vallejo, CA 94592.
- N66898—Commanding Officer, Naval Regional Medical Clinic, New Orleans, LA 70142.
- N66957—Director, Navy Publications and Printing Service, Branch Officer, Southeast Division, Bldg. 2049, NTC, Orlando, FL 32813.
- N66959—Director, Navy Publications and Printing Service, Branch Officer, Southeast Division, P.O. Box 3, NAS, Jacksonville, FL 32212.
- N66972—Commanding Officer, Navy Recruiting District, 5901 S.W. 74th Street, Miami, FL 33143.
- N67596—Commanding Officer, Navy Recruiting District, 102 W Rector Street, San Antonio, TX 78216.
- N68011—Commanding Officer, Navy Recruiting District, 8 North Third Street, Sterick Bldg., Memphis, TN 38103.
- N68032—Director, NAVRESMGTSOL, NACRESUPPOFC, Detachment One, Bldg. 59, Naval Support Activity, New Orleans, LA 60146.
- N68047, 4L—U.S. Naval Office, Singapore, FPO San Francisco, CA 96699.
- N68056, JE—Navy Regional Medical Center, San Diego, CA 92134.
- N68057, VZ—Commanding Officer, Naval Regional Data Automation Center Norfolk, Code 212, Norfolk, VA 23511.
- N68064—Commanding Officer, NROTC Unit, University of Florida, Van Fleet Hall, Room 26, Gainesville, FL 32601.
- N68072—Commanding Officer, NROTC, Texas A&M University, College Station, TX 77843.
- N68084—Commanding Officer (Code 206), Naval Regional Medical Center, Charleston, SC 29408.
- N68085—Commanding Officer, Naval Regional Medical Center, Code 18, Jacksonville, FL 32214.
- N68086, 7S—Navy Regional Medical Center, Newport, RI 02840.
- N68092—Navy Regional Medical Center, Great Lakes, IL 60088.
- N68093—Navy Regional Medical Center, Camp Lejeune, NC 28542.
- N68094, V9—Navy Regional Medical Center, Camp Pendleton, CA 92055.
- N68095, JF—Naval Regional Medical Center, Bremerton, WA 98314.
- N68096, J5—Commanding Officer, U.S. Naval Regional Medical Center, FPO San Francisco 96630.
- N68097, QA—Navy Regional Medical Center, Oakland, CA 94627.
- N68101—Navy Regional Medical Center, 17th Street and Pattison Avenue, Philadelphia, PA 19145.
- N68109—Commanding Officer NROTC Unit, Florida A&M University, Tallahassee, FL 32307.
- N68171 M3—Commanding Officer, U.S. Naval Regional Medical Contracting Center, FPO New York 09521.
- N68199—Commanding Officer, Navy Office of Information, 1459 Peachtree Street, NE, Suite 300, Atlanta, GA 30309.
- N68200, VM—Director, Navy Office of Information, Dallas Branch, 1114 Commerce Street, Suite 811, Dallas, TX 75242.
- N68221, 7J—Commanding Officer, Naval Personnel Research and Development Center, San Diego, CA 92152.
- N68248, V6—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Naval Submarine Base, Kings Bay, GA 31547.
- N68297, ET—Naval Magazine, Lualualei, Oahu HI 96792-4301.
- N68306, FO—Commander, Naval Reserve Readiness Command, Region Six, WNY Bldg 200, Washington, DC 20374-2003.
- N68307—Commander, Code 431, Naval Reserve Readiness Command Region Ten, New Orleans, LA 70142.
- N68311, JL—Naval Station, Long Beach, CA 90822.
- N68322, 7Z—Naval Education & Training Program, Development Center, Code SU1, Saufley Field, Pensacola, FL 32509.
- N68332, 9T—Commander, Naval Reserve Readiness Command, Region 18, 301 Navy Drive, Industrial Airport, KS 66031-0031.
- N68335, 4Y—Commanding Officer, Naval Air Engineering Center, Supply Dept., Purchase Division, Lakehurst, NJ 08733.
- N68348, GO—Commander, Naval Reserve Readiness Command, Region Nine, NAS Memphis (76), Bldg E-35, Millington, TN 38054.
- N68356, DO—Commander, Naval Reserve Readiness Command, Region Seven, Naval Base, Charleston, SC 29408.
- N68358—Commander, Naval Reserve Readiness Command, Region Eight, Naval Air Station, Jacksonville, FL 32212.
- N68359—Commander, Naval Reserve Readiness Command, Region Eleven, Bldg 11, Naval Air Station, Dallas, TX 75211.
- N68378, KQ—Navy Public Works Center, San Francisco Bay, Oakland, CA 94623.
- N68436, KC, J6—Naval Submarine Base, Code 863, Bangor, Bremerton, WA 98315.
- N68441—Commanding Officer, Naval Regional Dental Center, Naval Air Station, Pensacola FL 32508.
- N68443, 7T—Commanding Officer, Naval Regional Dental Center, Bremerton, WA 98314.
- N68449—Commanding Officer, Naval & Marine Corps Reserve Center, Pier Road, Bldg 187, Orange, TX 77630.
- N68478, 7H—Naval Plant Branch Representative Office, Westinghouse Electric Corporation, Oceanic Division, PO Box 1488, Annapolis, MD 21404.
- N68497—Commanding Officer, Code 40, Naval Administrative Command, Naval Training Center, Orlando, FL 32813.
- N68499, LX—Director, Naval Council of Personnel Boards, Ballston Center Tower #2, 801 North Randolph Street, Arlington, VA 22203-1989.
- N68518—Commanding Officer, Naval Reserve Support Office, Internal Supply, Code S43, 4400 Dauphine Street, New Orleans, LA 70146.
- N68520, 7P—Naval Aviation Logistics Center, U.S. Naval Air Station, Patuxent River, MD 20670.
- N68525, 7Q—Naval Plant Representative Office, General Electric Company, Aircraft Engine Group, 1000 Western Avenue, Lynn, MA 01910.
- N68546, QG—Navy Environmental Health Center, Naval Station, Norfolk, VA 23511.
- N68610, GF—Officer in Charge, Fleet Hospital Support Center, 620 Central Ave., Bldg #5, Alameda, CA 94501.
- N68679, 3N—Commanding Officer, Naval Plant Representative Office, 4800 East River Road, Minneapolis, MN 55421.
- N68691, JW—Naval Plant Representative Office, Melbourne, Australia 96405.
- N68693, JZ—Naval Plant Representative Office, McDonnell Douglas Corp., P.O. Box 516, St. Louis, MO 63166.
- N68790—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Diego Garcia, FPO San Francisco 96685.
- N68836, J9—Commanding Officer, Naval Supply Center, Jacksonville, FL 32212.
- N68860, KR—Naval Supply Center—Pensacola, Pensacola, FL 32508-6200.
- N68863, LU—Naval Commercial Communication Office, 4401 Mass Avenue, NW, Washington, DC 20390-5290.
- N70092—U.S. Naval Security Station, 3801 Nebraska Avenue, NW, Washington, DC 20390.
- N70240, M6—Commanding Officer, Naval Communication Station, San Diego, 937 N. Harbor Drive, San Diego, CA 92132.
- N70272, 8G, ND—U.S. Naval Communication Area, Master Station Atlantic, Norfolk, VA 23511-6898.
- N70273, V3—Naval Radio Station, Jim Creek, Oso, WA 98223.
- N70278, V4—U.S. Naval Communication Station (Yokosuka, Japan), Box 3, FPO Seattle 98762.
- N70283—Commanding Officer, Code 30, Naval Security Group Activity, FPO Miami 34060.
- N70294, 8H—U.S. Naval Communication Area, Master Station MED (Naples, Italy), FPO New York 09524.
- N70295, 8J—U.S. Naval Communication Station (Nea Makri, Greece), FPO New York 09525.

- N70310, N2—Navel Radio Station R, Sugar Grove, WV 26815.
- M00027, MS—Headquarters, U.S. Marine Corps, Washington, DC 20380.
- M00146, MT—Commissary Store, Marine Corps Air Station, Cherry Point, NC 28533.
- M00243, NE—Marine Corps Recruit Depot, San Diego, CA 92140.
- M00263, MX—Marine Corps Recruit Depot, Paris Island, SC 29905.
- M00264, MY—Marine Corps Schools Development and Education Command, Quantico, VA 22134.
- M00318, MU—Commissary Store, Marine Corps Air Station, FPO San Francisco, CA 96628.
- M00681, NG—Marine Corps Base, Camp Pendleton, Oceanside, CA 92054.
- M28300, QH—1st Force Service Regiment, Force Logistic Command, FPO San Francisco, CA 96602.
- M60050, MV—Commissary Store, Marine Corps Air Station, El Toro (Santa Ana), CA 92709.
- M61801—Marine Corps Reserve Training Center, Lawrence, MA 01843.
- M61807—Marine Corps Reserve Training Center Springfield, MA 01104.
- M61809—Marine Corps Reserve Training Center, Manchester, NH 03102.
- M61815—Marine Corps Reserve Training Center, Worcester, MA 01605.
- M61821—Marine Corps Reserve Training Center, Providence, RI 02905.
- M61835—Marine Corps Reserve Training Center, Hartford, CT 06114.
- M61839—Marine Corps Reserve Training Center, Rochester, NY 14617.
- M61842—Marine Corps Reserve Training Center, Buffalo, NY 14201.
- M61843—Marine Corps Reserve Training Center, Bronx, NY (Fort Schuyler) 10465.
- M61846—Marine Corps Reserve Training Center, New Rochelle, NY 10801.
- M61858—Marine Corps Reserve Training Center, Newark, NJ 07114.
- M61861—Marine Corps Reserve Training Center, Albany, NY 12203.
- M61866—Marine Corps Reserve Training Center, New Haven, CT 06512.
- M61869—Marine Corps Reserve Training Center, Huntington, L.I., NY 11743.
- M61876—Marine Corps Reserve Training Center, Wilmington, DE 19808.
- M61877—Marine Corps Reserve Training Center, Harrisburg, PA 17101.
- M61881—Marine Corps Reserve Training Center, Reading, PA 19610.
- M61884—Marine Corps Reserve Training Center, Folsom, PA 19033.
- M61888—Marine Corps Reserve Training Center, Camden, NJ 08103.
- M61894—Marine Corps Reserve Training Center, Washington, DC 20390.
- M61899—Marine Corps Reserve Training Center, Portsmouth, VA 23709.
- M61902—Marine Corps Reserve Training Center, Cumberland, MD 21502.
- M61910—Marine Corps Reserve Training Center, Augusta, GA 30904.
- M61912—Marine Corps Reserve Training Center, Columbia, SC 29201.
- M61915—Marine Corps Reserve Training Center, Atlanta, GA 30318-5699.
- M61917—Marine Corps Reserve Training Center, Charlotte, NC 28202.
- M61921—Marine Corps Reserve Training Center, Greensboro, NC 27401.
- M61923—Marine Corps Reserve Training Center, Raleigh, NC 27607.
- M61926—Marine Corps Reserve Training Center, Jacksonville, FL 32207.
- M61934—Marine Corps Reserve Training Center, Chattanooga, TN 37405.
- M61935—Marine Corps Reserve Training Center, Gulfport, MS 39503.
- M61936—Marine Corps Reserve Training Center, Norman, OK 73070.
- M61938—Marine Corps Reserve Training Center, Tulsa, OK 74104.
- M61939—Marine Corps Reserve Training Center, Galveston, TX 77552.
- M61942—Marine Corps Reserve Training Center, Birmingham, AL 35208.
- M61944—Marine Corps Reserve Training Center, Shreveport, LA 71109.
- M61945—Marine Corps Reserve Training Center, Mobile, AL 36608.
- M61947—Marine Corps Reserve Training Center, Montgomery, AL 36109.
- M61948—Marine Corps Reserve Training Center, Knoxville, TN 37901.
- M61954—Marine Corps Reserve Training Center, New Orleans, LA 70140.
- M61955—Marine Corps Reserve Training Center, Jackson, MS 39205.
- M61959—Marine Corps Reserve Training Center, Amarillo, TX 79106.
- M61963—Marine Corps Reserve Training Center, Austin, TX 78704.
- M61964—Marine Corps Reserve Training Center, Fort Worth, TX 76110.
- M61966—Marine Corps Reserve Training Center, Beaumont, TX 77701.
- M61967—Marine Corps Reserve Training Center, Lafayette, LA 70502.
- M61970—Marine Corps Reserve Training Center, Little Rock, AR 72205.
- M61979—Marine Corps Reserve Training Center, Dallas, TX 75220.
- M61980—Marine Corps Reserve Training Center, El Paso, TX 79923.
- M61982—Marine Corps Reserve Training Center, San Antonio, TX 78204.
- M61984—Marine Corps Reserve Training Center, Evansville, IN 47712.
- M61989—Marine Corps Reserve Training Center, Green Bay, WI 54305.
- M61992—Marine Corps Reserve Training Center, St. Louis, MO 63145.
- M61997—Marine Corps Reserve Training Center, Joliet (Rockdale), IL 60436.
- M61998—Marine Corps Reserve Training Center, Omaha, NE 68111.
- M61999—Marine Corps Reserve Training Center, Toledo, OH 43611.
- M62028—Marine Corps Reserve Training Center, Trenton, NJ 08608.
- M62034—Marine Corps Reserve Training Center, Detroit MI 48214.
- M62035—Marine Corps Reserve Training Center, Milwaukee, WI 53207.
- M62037—Marine Corps Reserve Training Center, Peoria, IL 62633.
- M62038—Marine Corps Reserve Training Center, Springfield, MO 65801.
- M62041—Marine Corps Reserve Training Center, Topeka, KS 66607.
- M62042—Marine Corps Reserve Training Center, Waterloo, IA 50703.
- M62044—Marine Corps Reserve Training Center, Fort Des Moines, IA 50135.
- M62045—Marine Corps Reserve Training Center, Steubenville, OH 43952.
- M62046—Marine Corps Reserve Training Center, Gary, IN 46403.
- M62054—Marine Corps Reserve Training Center, Kansas City, MO 64130.
- M62055—Marine Corps Reserve Training Center, Dayton, OH 45417.
- M62058—Marine Corps Reserve Training Center, Naval Air Station, Minneapolis, MN 55450.
- M62060—Marine Corps Reserve Training Center, Danville, IL 61834.
- M62063—Marine Corps Reserve Training Center, Mansfield, OH 44901.
- M62071—Marine Corps Reserve Training Center, Rockford, IL 61105.
- M62073—Marine Corps Reserve Training Center, Fort Wayne, IN 46803.
- M62075—Marine Corps Reserve Training Center, South Bend, IN 46613.
- M62077—Marine Corps Reserve Training Center, Lexington, KY 40503.
- M62078—Marine Corps Reserve Training Center, Louisville, KY 40214.
- M62080—Marine Corps Reserve Training Center, Dearborn, MI 48120.
- M62081—Marine Corps Reserve Training Center, Flint, MI 48503.
- M62082—Marine Corps Reserve Training Center, Grand Rapids, MI 49505.
- M62084—Marine Corps Reserve Training Center, Kalamazoo, MI 49001.
- M62085—Marine Corps Reserve Training Center, Lansing, MI 48912.
- M62092—Marine Corps Reserve Training Center, Akron, OH 43310.
- M62093—Marine Corps Reserve Training Center, Canton, OH 44706.
- M62094—Marine Corps Reserve Training Center, Cincinnati, OH 45207.
- M62095—Marine Corps Reserve Training Center, Columbus, OH 43215.
- M62096—Marine Corps Reserve Training Center, Lorain, OH 44052.
- M62098—Marine Corps Reserve Training Center, Youngstown, OH 44507.
- M62100—Marine Corps Reserve Training Center, Madison, WI 53703.
- M62103—Marine Corps Reserve Training Center, Los Angeles, CA 90012.
- M62107—Marine Corps Reserve Training Center, Tucson, AZ 85711.
- M62108—Marine Corps Reserve Training Center, Albuquerque, NM 87106.
- M62109—Marine Corps Reserve Training Center, Phoenix, AZ 85009.
- M62110—Marine Corps Reserve Training Center, Santa Monica, CA 90405.
- M62111—Marine Corps Reserve Training Center, Bakersfield, CA 93307.
- M62113—Marine Corps Reserve Training Center, Pasadena, CA 91107.
- M62114—Marine Corps Reserve Training Center, San Bernardino, CA 92402.
- M62115—Marine Corps Reserve Training Center, San Francisco, CA 94130.
- M62119—Marine Corps Reserve Training Center, Sacramento, CA 95818.
- M62121—Marine Corps Reserve Training Center, Fresno, CA 93702.
- M62126—Marine Corps Reserve Training Center, Salt Lake City, UT 84113.
- M62127—Marine Corps Reserve Training Center, Reno, NV 89502.

- M62128—Marine Corps Reserve Training Center, San Jose, CA 95112.
- M62130—Marine Corps Reserve Training Center, Denver, CO 80225.
- M62135—Marine Corps Reserve Training Center, Tacoma, WA 98402.
- M62138—Marine Corps Reserve Training Center, Billings, MT 59101.
- M62139—Marine Corps Reserve Training Center, Boise, ID 83701.
- M62145—Marine Corps Reserve Training Center, Portland, OR 97217.
- M62146—Marine Corps Reserve Training Center, Spokane, WA 99208.
- M62204, MW—Marine Corps Logistics Base, Barstow, CA 92311.
- M62205—Marine Barracks, Bremerton, WA 98314.
- M62211—Marine Barracks, Naval Base, Pearl Harbor, Hawaii, FPO San Francisco, CA 96610.
- M62214—Marine Barracks, Fleet Activity, FPO Seattle, WA 98762.
- M62217—Marine Barracks, Fleet Activities, Yokosuka, FPO San Francisco, CA 96662.
- M62218—Marine Barracks, Naval Base, New York, Brooklyn, NY 11201.
- M62222—Marine Barracks, Naval Base, Boston, MA 02129.
- M62248—Marine Corps Reserve Training Center, Lubbock, TX 79408.
- M62250—Marine Corps Reserve Training Center, Salem, OR 97308.
- M62257—Marine Corps Reserve Training Center, Abilene, TX 79602.
- M62274—Marine Corps Reserve Training Center, Compton, CA 90221.
- M62293—Marine Barracks, Guam, FPO San Francisco, CA 96630.
- M62298—Marine Corps Reserve Training Center, Eugene, OR 97401.
- M62361—Marine Air Reserve Training Detachment, NAS, Alameda, CA 94501.
- M62375—Marine Corps Reserve Training Center, Greenville, SC 29601.
- M62378—Marine Corps Reserve Training Center, East Ninth Street, Cleveland, OH 44114.
- M62400—Marine Corps Reserve Training Center, Moline, IL 61265.
- M62748—Marine Corps Reserve Training Center, Waco, TX 76710.
- M62757—Marine Corps Reserve Training Center, Forest Park, IL 60130.
- M62952—Marine Corps Reserve Training Center, Pittsburgh, PA 15213.
- M62974, NA—Commissary Store, Marine Corps Air Station, Yuma, AZ 85364.
- M63438—Marine Corps Reserve Training Center, Little Creek, Norfolk, VA 23521.
- M67001, NB—Marine Corps Base, Camp Lejeune, NC 28542.
- M67004, NC—Marine Corps Logistics Base, Albany, GA 31704.
- M67011—Director, 1st Marine Corps District, Long Island, NY 11530.
- M67013—Director, 4th Marine Corps District, Philadelphia, PA 19112.
- M67015—Director, 6th Marine Corps District, Atlanta, GA 30303.
- M67016—Director, 8th Marine Corps District, New Orleans, LA 70113.
- M67017—Director, 9th Marine Corps District, Shawnee Mission, KA 66204.
- M67019—Director, 12th Marine Corps District, San Francisco, CA 94130.
- M67021—Marine Corps Reserve Training Command, Glenview, IL 60026.
- M67025—Headquarters, Fleet Marine Force, Pacific, Oahu, FPO San Francisco, CA 96610.
- M67027—Marine Barracks, Naval Base, Key West, FL 33040.
- M67029—Marine Barracks, Washington, DC 20003.
- M67030—Marine Barracks, Mare Island, Vallejo, CA 94592.
- M67031—Marine Barracks, Naval Station, Treasure Island, San Francisco, CA 94130.
- M67032—Marine Barracks, Naval Station, Sangley Point, Luzon, Philippines, FPO San Francisco, CA 96652.
- M67033—Marine Barracks, Naval Base, Subic Bay, Luzon, Philippines, FPO San Francisco, CA 96650.
- M67036—Marine Barracks, San Juan, P.R., FPO New York, NY 09550.
- M67037—Marine Barracks, Fleet Activities, Saesbo, FPO San Francisco, CA 96666.
- M67042—Marine Barracks, Naval Ammunition Depot, Hawthorne, NV 89415.
- M67043—Marine Barracks, NAD, Bangor, Bremerton, WA 98314.
- M67044—Marine Barracks, Naval Ammunition Depot, McAlester, OK 74501.
- M67048—Marine Barracks, Hunters Pt. Div., SFRan Bay NSY (R), San Francisco, CA 94135.
- M67054—Marine Barracks, Naval Weapons Station, Yorktown, VA 23491.
- M67058—Marine Barracks, Naval Base, Newport, RI 02844.
- M67059—Marine Barracks, Submarine Base, New London, CT 06342.
- M67063—Marine Barracks, Naval Ammunition Depot, Earle, NJ 07722.
- M67066—Marine Barracks, Naval Station, Annapolis, MD 21402.
- M67068—Marine Barracks, Naval Base, Portsmouth, NH 03804.
- M67228—Marine Barracks, Naval Base, Guantanamo Bay, FPO New York, NY 09593.
- M67229—Marine Barracks, Naval Base, Charleston, SC 29408.
- M67230—Marine Barracks, Naval Base, Norfolk, VA 23511.
- M67231—Marine Barracks, Naval Base, Philadelphia, PA 19146.
- M67232—Marine Barracks, Norfolk Naval Shipyard, Portsmouth, VA 23709.
- M67235—Marine Air Reserve Training Detachment, Naval Air Facility, Andrews AFB, Washington, DC 20390.
- M67236—Marine Air Reserve Training Detachment, NAS, Atlanta, GA 30063.
- M67241—Marine Air Reserve Training Detachment, NAS, Glenview, IL 60026.
- M67242—Marine Air Reserve Training Detachment, NAS, Grosse Ile, MI 48138.
- M67244—Marine Air Reserve Training Detachment, NAS, Los Alamitos, CA 90721.
- M67245—Marine Air Reserve Training Detachment, Memphis, TN 38115.
- M67247—Marine Air Reserve Training Detachment, NAS, Minneapolis, MN 55450.
- M67248—Marine Air Reserve Training Detachment, NAS, New Orleans, LA 70140.
- M67249—Marine Air Reserve Training Detachment, NAS, Brooklyn, NY 11234.
- M67251—Marine Barracks, Naval Air Station, Alameda, CA 94501.
- M67252—Marine Air Reserve Training Detachment, NAS, Olathe, KS 66061.
- M67254—Marine Air Reserve Training Detachment, South Weymouth, MA 02190.
- M67256—Marine Air Reserve Training Detachment, NAS, Willow Grove, PA 19090.
- M67270—Marine Air Reserve Training Detachment, Norfolk, VA 23511.
- M67272—Marine Barracks, Naval Air Station, Atsugi, FPO San Francisco, CA 96667.
- M67273—Marine Barracks, Naval Weapons Station, Concord, CA 94520.
- M67281—Marine Detachment, Naval Station, Trinidad, FPO New York, NY 09655.
- M67283—Marine Barracks, Naval Station, Bermuda Barracks, Naval Station, Bermuda, FPO New York, NY 09560.
- M67284—Marine Barracks, Naval Station, Argentina, FPO, New York, NY 09597.
- M67285—Marine Barracks, Naval Station, Adak, FPO Seattle, WA 98791.
- M67336—Marine Barracks, Clarksville Base, Clarksville, TN 37040.
- M67341—Marine Barracks, Naval Station, San Diego, CA 92136.
- M67342—Marine Barracks, Naval Air Station, Barbers Point, Oahu, Hawaii, FPO San Francisco, CA 96611.
- M67343—Marine Barracks, Naval Ammunition Depot, Oahu, FPO San Francisco, CA 96612.
- M67348—Marine Detachment, Naval Disciplinary Command, Naval Base, Portsmouth, NH 03804.
- M67350—Marine Barracks, Naval Activities, Naples, FPO New York, NY 09521.
- M67351—Marine Detachment, London, APO New York, NY 09510.
- M67353—Headquarters Battalion, Marine Corps, Henderson Hall, Arlington, VA 22214.
- M67354—Post Supply Officer, Headquarters Marine Corps, Navy Annex, Arlington, VA 20380.
- M67385—Camp H.M. Smith, U.S. Marine Corps, Aiea, Oahu, Hawaii 96861.
- M67387—Marine Barracks, Fallbrook Annex, NWPSTA, Seal Beach, CA 92028.
- M67388—Marine Barracks, Lake Meade Base, Las Vegas, NV 89110.
- M67390—Director, 14th Marine Corps District, Pearl Harbor, Hawaii, FPO San Francisco, CA 96610.
- M67391, KY—Headquarters Fleet Marine Force Atlantic (Camp Elmore), Norfolk, VA 23511.
- M67399, NF—Marine Corps Air Ground Combat Center, Twentynine Palms, CA 92278.
- M67400, QJ—Marine Corps Procurement Office, Okinawa, Marine Corps Base, Camp Smedley D. Butler, FPO Seattle, WA 98773.
- M67401—Marine Barracks, Rota, FPO New York, NY 09540.
- M67403—Marine Barracks, NWPSTA, Seal Beach, CA 90740.
- M67405—Marine Barracks, NAD, Charleston, SC 29408.
- M67410—Marine Barracks, Naval Missile Facility, Lompoc, CA 93436.
- M67415—Marine Barracks, Sigonella, Sicily, FPO, New York, NY 09521.

M67418—Marine Barracks, NAV Forces Iceland, Keflavik, FPO New York, NY 09571.
 M67422—Marine Air Reserve Training Detachment, NAS, Seattle, WA 98105.
 M67424—Subunit 2, Marine Air Reserve Training Detachment, Los Alamitos, Pasadena, CA 91107.
 M67425—Subunit 3, Marine Air Reserve Training Detachment, Alameda, CA 94501.
 M67426—Subunit 4, Marine Air Reserve Training Detachment, Alameda, San Jose, CA 95112.
 M67428 JA—West Coast Commissary Complex, Marine Corps Air Bases Western Area, MCAS EL Toro, Santa Ana, CA 92709.
 M67432—Subunit 2, Marine Air Reserve Training Detachment, Willow Grove, MCRTC, Wyoming, PA 18644.
 M67433—Subunit 1, Marine Corps Reserve Training Detachment, Grosse Ile, NMCRTC, Green Bay, WI 54305.
 M67443, LG—Marine Corps Finance Center, Kansas City, MO 64197.
 M67842, K6—East Coast Commissary Complex, Marine Corps Base, Camp Lejeune, NC 28542.

Department of the Air Force

(C) Denotes a Central Contracting Activity.
 F01600, 5A—3800 ABW/LGC, Maxwell AFB, AL 36112-5320.
 F01620, 6K—HQ SSC/PK, Gunter AFS, AL 36114-6343.
 F02600, 5B—82 FTW/LGC, Williams AFB, AZ 85240-5004.
 F02601, 5C—836 AD/LGC, Davis-Monthan AFB, AZ 85707-5320.
 F02604, 5D—832 AD/LGC, Luke AFB, AZ 85309-5320.
 F02610, SR—AFPRO, Hughes Missile Systems Group, P.O. Box 11337, Emery Park Station, Tucson, AZ 85734-1337.
 F03601, 5E—97 BMW/LGC, Blytheville AFB, AR 72315-5320.
 F03602, 5F—314 TAW/LGC, Little Rock AFB, AR 72076-5320.
 F04604, 5G—93 BMW/LGC, Castle AFB, CA 95342-5320.
 F04605, 5H—22 AREFW/LGC March AFB, CA 92518-5320.
 F04606, SM—SM-ALC/PM, Sacramento Air Logistics Center, McClellan AFB, CA 95652-5320.
 F04607, 5J—83 MAW/LGC, Norton AFB, CA 92409-5320.
 F04609, 5K—831 AD/LGC, George AFB, CA 92394-5320.
 F04611, QQ—AFFTC/PK (C), Edwards AFB, CA 93523-5320.
 F04612, 5L—323 FTW/LGC, Mather AFB CA 95655-5320.
 F04620, S6—AFPRO, TRW Electronics & Defense Sector, One Space Park, Redondo Beach, CA 90278-1078.
 F04626, 5M—60 MAW/LGC, Travis AFB, CA 94535-5320.
 F04630, RY—AFPRO, RI Rocketdyne Division, 6633 Canoga Avenue, Canoga Park, CA 91303-2790.
 F04666, 5N—9 SRW/LGC, Beale AFB, CA 95903-5320.
 F04679, QR—AFPRO, Northrop Corp, One Northrup Avenue, Hawthorne, CA 90250-3296.
 F04681, QS—AFPRO, RI Corp, Los Angeles Division, PO Box 92098, Los Angeles, CA 90009-2098.
 F04682, QT—AFPRO, Hughes Aircraft Company, PO Box 92463, Los Angeles, CA 90009-2463.
 F04684, QW—4392 AEROSW/LGC, Vandenberg AFB, CA 93437-5320.
 F04688, QV—AFPRO, Aerojet-General Corp, PO Box 15846, Sacramento, CA 95852-1846.
 F04689, RN—1004 Space Support Group, Onizuka AFB, PO Box 3430, Sunnyvale, CA 94088-3430.
 F04691, QX—AFPRO, Lockheed Missile & Space Corp, 1111 Lockheed Way, P.O. Box 3504, Sunnyvale, CA 94088-3504.
 F04693, MG—SD/PMB, Base Contracts, PO Box 92960, Worldway Postal Center, Los Angeles, CA 90009-9260.
 F04696, RB—AFPRO, RI Anaheim, 3370 Miraloma Ave., Anaheim CA 92803-3110.
 F04699, Q5—SM-ALC/PMK, Base Contracts, McClellan AFB, CA 95652-5320.
 F04700, Q2—AFFTC/PKB, Base Contracts, Edwards AFB, CA 93523-5000.
 F04701, TB—SD/PM (C), Space Division, PO Box 92960, Worldway Postal Center, Los Angeles, CA 90009-9260.
 F04702—HQ AAVS/LGC, Norton AFB, CA 92409-5439.
 F04703, R8—WSMC/PM (C), Western Space and Missile Center, Vandenberg AFB, CA 93437-6021.
 F04704, R9—BMO/PK (C), Ballistic Missile Office, Norton AFB, CA 92409-6463.
 F04705, RT—Det 6, 2762 Logistics Sq. (AFLC), Norton AFB, CA 92409.
 F04709—Det 51, SM-ALC, Norton AFB, CA 92409-6447.
 F04710, TC—AFPRO, Douglas Aircraft Company, 3855 Lakewood Boulevard, Long Beach, CA 90846-0001.
 F04720, RD—AFPRO RI NAAO, OL-AA, 2825 East Avenue P, Palmdale, CA 93550-0319.
 F04735, 6M—Det 51, SM-ALC, Norton AFB, CA 92409.
 F05600, 5P—LITC/LGC, Lowry AFB, CO 80230-5320.
 F05603—HQ AFSPACECOM/LKD, Stop 7, Peterson AFB Co 80914-5001.
 F05604, SX—3d Space Support Wing/CMB, Stop 20, Peterson AFB, CO 80914-5001.
 F05611, 5Q—USAF/LGC, USAF Academy, CO 80840-0189.
 F05617, RE—AFPRO, Martin Marietta Denver Aerospace, PO Box 179, Denver, CO 80201-0179.
 F06700, T5—AFPRO, Pratt & Whitney, 400 Main Street, East Hartford, CT 06108-0969.
 F07603, 5R—436 MAW/LGC, Dover AFB, DE 19902-5320.
 F08602, 5S—56 TTW/LGC, MacDill AFB, FL 33608-5320.
 F08606, RG—ESMC/PM (C), Eastern Space & Missile Center, Patrick AFB, FL 32925-5472.
 F08620, 5T—1 SOW/LGC, Hurlburt Field, FL 32544-5320.
 F08621, 5U—31 FTW/LGC, Homestead AFB, FL 33039-5320.
 F08635, RH—AD/PM (C) Armament Division, Eglin AFB, FL 32542-5000.
 F08637, 5V—HQ USAF ADWC/LGC, Tyndall AFB, FL 32403-5320.
 F08650, TJ—ESMC/PMK, Base Contracts, Patrick AFB, FL 32925-5472.
 F08651, Q3—AD/PMK, Base Contracts, Eglin AFB, FL 32542-5320.
 F08675, T2—AFPRO, Pratt & Whitney Aircraft, PO Box 109600, West Palm Beach, FL 33412-9600.
 F09603, RJ, RR—WR-ALC/PM, Warner Robins Air Logistics Center, Robins AFB, GA 31098-5320.
 F09604, RU—Det 8, 2762 Logistics Sq (AFLC), Robins AFB, GA 31098.
 F09607, 5W—347 TFW/LGC, Moody AFB, GA 31699-5320.
 F09609, 5X—94 CSG/LGC Dobbins, AFB, GA 30069-5320.
 F09632, RK—AFPRO, Lockheed-GA Co., Marietta, GA 30063-0001.
 F09634, 5Y—HQ AFRES/LGC, Robins AFB, GA 31098-6001.
 F09650, Q6—WR-ALC/PMK, Base Contracts, Robins AFB, GA 31098-5320.
 F10603, 5Z—366 TFW/LGC, Mountain Home AFB, ID 83648-5320.
 F11602, 6A—CTTC/LGC, Chanute AFB, IL 61868-5320.
 F11603, 6B—928 TAG/LGC, Chicago O'Hare ARFF IL 60666-5000.
 F11623, 6C—375 AAW/LGC, Scott AFB, IL 62225-5320.
 F11624, X4—2026 CS/PGZ, Scott AFB, IL 62225-6001.
 F11626, RL—HQ MAC/TRC Scott AFB, IL 62225-5001.
 F12617, 6D—305 AREFW/LGC, Grissom AFB, IN 46971-5320.
 F14614, 6E—384 BMW/LGC, McConnell AFB, KS 67221-5320.
 F14615, RP—AFPRO, Boeing Military Airplane Co., 3801 South Oliver Street, Wichita, KS 67277-7730.
 F16600, 6F—23 TFW/LGC, England AFB, LA 71311-5320.
 F16602, 6G—2 BMW/LGC, Barksdale AFB, LA 71110-5320.
 F17600, 6H—42 BMW/LGC, Loring AFB, ME 0475-5320.
 F18400, S2—AFPRO, Westinghouse Defense and Electronics Systems Center, P.O. Box 1693, Baltimore, MD 21203-1693.
 F18600, RQ—HQ AFSC/PK (C), Andrews AFB, DC 20334-5000.
 F19617—439 CSG/LGC, Westover AFB MA 01022-5320.
 F19620, SQ—AFPRO, Textron Defense Systems, 201 Lowell Street, Wilmington, MA 01887-2941.
 F19628, RS—ESD/PK (C), Electronic Systems Division, Hanscom AFB, MA 01731-5000.
 F19630, RV—AFCAC/PK (C), Hanscom AFB, MA 01731-6340.
 F19650, SH—ESD/PKU, Base Contracts, Hanscom AFB, MA 01731-5320.
 F20603, 6J—379 BMW/LGC, Wurtsmith AFB, MI 48753-5320.
 F20613, 6L—410 BMW/LGC, K.I. Sawyer AFB, MI 49843-5320.
 F21611, 6N—934 TAG/LGC, Minneapolis-St. Paul IAP, MN 55450-5000.
 F22600, RC—KTTC/LGC, Keesler AFB, MS 39534-5000.
 F22608, 6Q—14 FTW/LGC, Columbus AFB, MS 39701-5000.
 F23606, 6R—351 SMW/LGC, Whiteman AFB, MO 65305-5320.
 F23608, 6S—442 CSG/LGC, Richards-Gebaur AFB, MO 64030-5000.
 F24604, 6T—341 SMW/LGC, Malmstrom AFB, MT 59402-5320.

- F25600, 6U—55 SRW/LGC, Offutt AFB, NE 68113-5320.
- F25606, TD—3908 CONS/LGC, HQ SAC/LGC, Offutt AFB, NE 68113-5000.
- F26600, S4—554 OSW/LGC, Nellis AFB, NV 89191-5320.
- F27604, R5—509 BMW/LGC, Pease AFB, NH 03803-5320.
- F28609, 6V—438 MAW/LGC, McGuire AFB NJ 08641-5320.
- F29601, RW—Kirtland Contracting Center (PKR), Kirtland AFB NM 87117-6008.
- F29605, 6W—27 TFW/LGC, Cannon AFB, NM 88103-5320.
- F29650, R3—Kirtland Contracting Center (PKB), Kirtland AFB, NM 87117-6008.
- F29651, 6X—833 AD/LGC, Holloman AFB, NM 88330-5320.
- F30602, RX—RADC/PK (C), Rome Air Development Center, Griffiss AFB, NY 13441-5700.
- F30617, 6Y—914 TAG/LGC, Niagara Falls IAP, NY 14304-5320.
- F30625, ST—AFPRO, Eaton AIL, Eaton Corporation, AIL Div., Commack Road, Deer Park, Long Island, NY 11729-9998.
- F30635, S3—416 BMW/LGC, Griffiss AFB, NY 13441-5320.
- F30636, 6Z—380 BMW/LGC, Plattsburgh AFB, NY 12903-5320.
- F31601, BU—317 TAW/LGC, Pope AFB, NC 28308-5320.
- F31610, BW—4 TFW/LGC, Seymour Johnson AFB, NC 27531-5320.
- F32604, BX—91 SMW/LGC, Minot AFB, ND 58705-5320.
- F32605, BY—321 SMW/LGC, Grand Forks AFB, ND 58205-5320.
- F33600, RZ—WPCC/PMR, PMS, PMT & PMY, Wright-Patterson AFB, OH 45433-5320.
- F33601, Q7—WPCC/PMK Base Contracts, Wright-Patterson AFB, OH 45433-5320.
- F33615, SG—ASD/PMR, Directorate of R&D Contracting, Wright-Patterson AFB, OH 45433-6503.
- F33620, SN—AFPRO RI NAAO, OL-AB, Rockwell International, PO Box 1259, Columbus, OH 43216-1259.
- F33630, C1—910 TAG/LGC, Youngstown MAP, OH 44473-0910.
- F33654, SB—AFPRO, General Electric Company, Cincinnati, OH 45215-6303.
- F33657, SC—ASD/PM (C), Aeronautical Systems Division, Wright-Patterson AFB, OH 45433-6503.
- F33659, Q8—2803 ABG/PM, Newark AFS, OH 43055-5320.
- F33661—AFCMC, Wright-Patterson AFB, OH 45433-5000.
- F33661, MJ—Det 33, AF Contr. Maint. Center, APO New York 09667-6207.
- F33661, SS—Det 16 AFCMC, APO New York 09633-5000.
- F33661, S8—AFLC LSG/PM, APO New York 09238-5002.
- F33661, SV—Det 17 AFCMC, APO New York, 09378-5000.
- F33661, R1—Det 28 AFCMC, APO SF 96214-0006.
- F33661, SU—Det 19 AFCMC, APO New York 09285-0001.
- F33733, J8—HQ AFSC/PLMM, Wright-Patterson AFB, OH 45433-6503.
- F34600, C2—71 FTW/LGC, Vance AFB, OK 73705-5000.
- F34601, SD, TA, TG—OC-ALC/PM, Oklahoma City Air Logistics Center, Tinker AFB, OK 73145-5320.
- F34608, TF—HQ EID/PK, Tinker AFB, OK 73145-6343.
- F34612, C3—443 MAW/LGC, Altus AFB, OK 73523-5320.
- F34650, Q9—OC-ALC-PMK, Base Contracts, Tinker AFB, OK 73145-5320.
- F35610, C4—114 TPTS/LGC, Kingsley Field, Klamath Falls, OR 97601.
- F36629, C7—911 TAG/LGC, Greater Pittsburgh IAP, PA 15231-5320.
- F36700, C8—913 TAG/LGC, Willow Grove ARF, PA 19090-5130.
- F36701, SF—AFPRO, GE Re-Entry Div., P.O. Box 8555, Philadelphia, PA 19101-8555.
- F36801, C9—363 TFW/LGC, Shaw AFB, SC 29152-5320.
- F36804, T3—HQ USCENAF/LGC, Shaw AFB, SC 29152-5002.
- F38606, CA—354 TFW/LGC, Myrtle Beach AFB, SC 29579-5320.
- F38610, CR—437 MAW/LGC, Charleston AFB, SC 29404-5320.
- F39601, CT—44 SMW/LGC, Ellsworth AFB, SD 57706-5320.
- F40600, Q4—AEDC/PK (C), Arnold Engineering Development Center, Arnold AFB, TN 37389-5000.
- F40650, D1—AEDC/PMK, Base Contracts, Arnold AFB, TN 37389-5000.
- F41608, SA, QU—SA-ALC/PM, San Antonio Air Logistics Center, Kelly AFB, TX 78241-5320.
- F41612, D4—STTC/LGC, Sheppard AFB, TX 76311-5000.
- F41613, D5—7 BMW/LGC, Carswell AFB, TX 76127-5320.
- F41614, E2—GTTC/LGC, Goodfellow AFB, TX 76908-5000.
- F41620, E3—64 FTW/LGC, Reese AFB, TX 79489-5000.
- F41621, SJ—HQ ESC/LGC, San Antonio, TX 78243-5000.
- F41650—SA-ALC/PMK, Base Contracts, Kelly AFB, TX 78241-5320.
- F41652, E5—96 BMW/LGC, Dyess AFB, TX 79607-5320.
- F41685, E6—47 FTW/LGC, Laughlin AFB, TX 78840-5000.
- F41687, E9—67 TRW/LGC, Bergstrom AFB, TX 78743-5320.
- F41689, SK—3303 CS, Randolph AFB, TX 78150-5001.
- F41695, SL, TH—AFPRO, General Dynamics, P.O. Box 371, Fort Worth, TX 76101-0371.
- F41800, T9—San Antonio Contracting Center, Ft. Sam Houston AIN, P.O. Box 8218, San Antonio, TX 78208-8218.
- F41999—AFNAF Purchasing Office, HQ AFMPC/DPMSK, 9504 IH 35 North, Rm 330, San Antonio, TX 78233.
- F42600, QP, SY—OO-ALC/PM, Ogden Air Logistics Center, Hill AFB, UT 84056-5320.
- F42650, R2—OO-ALC/PMK, Base Contracts, Hill AFB, UT 84056-5320.
- F42651, R6—AFPRO, Morton Thiokol Corp., P.O. Box 524/MS Z-10, Brigham City, UT 84302-0524.
- F44800, F3—1 TFW/LGC, Langley AFB, VA 23665-5320.
- F44650, Q1—4400 CONS/LGCN (C) Langley AFB, VA 23665-5000.
- F45603, F5—62 MAW/LGC, McChord AFB, WA 98438-5320.
- F45613, F8—92 BMW/LGC, Fairchild AFB, WA 99011-5320.
- F45632, SP—AFPRO, The Boeing Company, PO Box 3707, Seattle, WA 98124-3707.
- F47606, G7—440 TAW/LGC, Gen. Billy Mitchell Field, 300 College Ave., Milwaukee, WI 53207-5000.
- F48608, C9—90 SMW/LGC, F.E. Warren AFB, WY 82001-5320.
- F49620, SE—AFOSR/PK (C), AF Office of Scientific Research, Bolling AFB, DC 20332-6448.
- F49642, J1—1100 CNS/CN (AFDW) Andrews AFB, DC 20331-5320.
- F61040, M1—1605 MASW/LGC, APO New York 09408-5320.
- F61051—USDAO, American Embassy—Brussels, APO New York 09667.
- F61060—USDAO, American Embassy—Sofia, APO New York 09757.
- F61080—USDAO, American Consulate General—Prague, APO New York 09757.
- F61100—USDAO, American Embassy—Copenhagen, APO New York 09170.
- F61101, T1—3d Space Support Wing/Det 1, APO New York 09170-5000.
- F61121—USAFE Contracting Office, OL A Det 4, 7000 CONS/LGC, APO New York 09193-5320.
- F61130—USDAO, American Embassy—Helsinki, APO New York 09664.
- F61171—USDAO, American Embassy—Athens, APO New York 09223.
- F61173, N1—USAFE Contracting Region—Greece, Det 7, 7000 CONS/LGC, APO New York 09223-5320.
- F61180—USDAO, American Consulate General—Budapest, APO New York 09757.
- F61210—USDAO, American Embassy—Rome, APO New York 09794.
- F61211, N9—USAFE Contracting Region—Italy, Det 6, 7000 CONS/LGC, APO New York 09293-5320.
- F61214, U9—USAFE Contracting Office, OL A Det 6, 7000 CONS/LGC, APO New York 09240-5320.
- F61220, 4J—AFLC/SCE-PM, Support Center Europe, APO New York 09243-5361.
- F61250, TP—USAFE Contracting Office, OL-B Det 6, 7000 CONS/LGC, APO New York 09694-5320.
- F61256—USAFE Contracting Office, OL-C Det 6, 7000 CONS/LGC, APO New York 09161-5320.
- F61260—USDAO, American Embassy—The Hague, APO New York 09159.
- F61264—USAFE Contracting Office, OL-B Det 10, 7000 CONS-LGC, APO New York 09669-5320.
- F61270—USDAO, American Embassy—Oslo, APO New York 09085.
- F61271, T8—USAFE Contracting Office, OL A Det 2, 7000 CONS/LGC, APO New York 09085-5320.
- F61280—USADO, American Consulate General—Belgrade, APO New York 09757.
- F61290—USDAO, American Embassy—Lisbon, APO New York 09678.
- F61301—USDAO, American Embassy—Bucharest, APO New York 09757.
- F61308, W3—USAFE Contracting Region—Spain, Det 5, 7000 CONS/LGC, APO New York 09283-5320.
- F61310—USDAO, American Embassy—Madrid, APO New York 09285.

- F61354, W8—7241 ABG/LGC, APO New York 09224-5320.
- F61355, T4—HQ TUSLOG/LGC, APO New York 09254-5320.
- F61358, W9—39 TACG-LGC, APO New York 09289-5320.
- F61503, UC—435 TAW/LGC, APO New York 09057-5320.
- F61504, T6—7350 ABG/LGC, APO New York 09611-5320.
- F61517, UF—USAFE Contracting Region—Eifel, Det 3, 7000 CONS/LGC, APO New York 09132-5320.
- F61519, R4—USAFE Contracting Region—Mosel, Det 10, 7000 CONS/LGC, APO New York 09109-5320.
- F61521, UH—USAFE Contracting Office—Rhineland Pfalz, Det 2, 7000 CONS/LGC, APO New York 09012-5320.
- F61527—USAFE Contracting Office, OL—C Det 10, 7000 CONS/LGC, APO New York 09027-5320.
- F61546, UJ—USAFE Contracting Center, Det 1, 7000 CONS/LGC, APO New York 09633-5320.
- F61560, 4C—AFLC Logistics Support Group—Europe, APO New York 09012.
- F61700, TM—USAFE Contracting Office, OL—A Det 9, 7000 CONS/LGC, APO New York 09150-5320.
- F61708, UK—USAFE Contracting Region—Thames Valley, Det 9, 7000 CONS/LGC, APO New York 09194-5320.
- F61712, UM—USAFE Contracting Office, OL—B Det 4, 7000 CONS/LGC, APO New York 09755-5320.
- F61730, UQ—USAFE Contracting Office, OL—C Det 4, 7000 CONS/LGC, APO New York 09238-5320.
- F61775, UV—USAFE Contracting Region—UK North, Det 4, 7000 CONS/LGC, APO New York 09179-5320.
- F61815, T7—USAFE Contracting Office, OL—A Det 10, 7000 CONS/LGC, APO New York 09292-5320.
- F61817, UW—USAFE Contracting Office, OL—A Det 5, 7000 CONS/LGC, APO New York, NY 09286-5320.
- F61910, WJ—USAFE Contracting Office, OL—A Det 3, 7000 CONS/LGC, APO New York 09188-5320.
- F62032—HQ USMTM/SAS-LGC, APO New York 09616-5320.
- F62321, RA—PACAF Contracting Center/LGC, APO SF 96239-5320.
- F62509, QZ—432 TFW/LGC, APO SF 96519-5000.
- F62562, SW—PACAF Contracting Center/LGC, APO SF 96328-5320.
- F62600—5 DSCS/LGC, APO SF 96287-5000.
- F63197, UX—USAFE Contracting Office, OL—A Det 7, 7000 CONS/LGC, APO New York 09291-5320.
- F64133, S9—43 BMW/LGC, APO SF 96334-5320.
- F64605, TN—PACAF Contracting Center/LGC, Hickam AFB, HI 96853-5320.
- F64608, 4U—Communications/ADPE Branch, 15 ABW Contracting Center, Hickam AFB, HI 96853-5320.
- F64620, SZ—HQ PACAF/LGC, Hickam AFB, HI 96853-5001.
- F64719, TK—PACAF Contracting Center/LGC, APO SF 96274-5320.
- F65501, WF—Det 2, 5000 CONS/LGC, Elmendorf AFB, AK 99506-5001.
- F65503, WH—Det 1, 5000 CONS/LGC, Eielson AFB, AK 99702-5320.
- F65517, QN—HQ AAC/LGC, Elmendorf AFB, AK 99506-5001.
- F66501—USAFSO/LGC, APO Miami 34001-5320.
- Defense Logistics Agency*
- DLA800, YK—DLA ADP/Telecommunications Contracting Office, Cameron Station, Alexandria, VA 22304-6100.
- DLA002, TS—Defense Industrial Plant Equipment Center, Defense Depot Memphis, Memphis, TN 38114-5297.
- DLA003, TT—Defense Depot Ogden, Ogden, UT 84407-5000.
- DLA005, TV—Defense Depot Tracy, Tracy, CA 95376-5000.
- DLA100, TW—Defense Personnel Support Center, Directorate of Clothing & Textiles, 2800 South 20th Street, Philadelphia, PA 19101-8419.
- DLA120, TX—Defense Personnel Support Center, Directorate of Medical Materiel, 2800 South 20th Street, Philadelphia, PA 19101-8419.
- DLA13H, UE—Defense Personnel Support Center, Directorate of Subsistence, 2800 South 20th Street, Philadelphia, PA 19101-8419.
- DLA132, U8—Defense Subsistence Office, Kansas City, 601 E. 12th Street, Room 1768, Kansas City, MO 64106.
- DLA135, W4—Defense Subsistence Office, New Orleans, 4400 Dauphine Street, New Orleans, LA 70146.
- DLA136, W5—Defense Subsistence Office, Cheatham, Cheatham Annex, Bldg. 113, Williamsburg, VA 23185.
- DLA137, W6—Defense Subsistence Region, Pacific, 2155 Mariner Square Loop, Alameda, CA 94501.
- DLA139, U6—Defense Subsistence Region, Europe, APO New York, NY 09052.
- DLA140, W7—Defense Personnel Support Center (Installation Support), 2800 South 20th Street, Philadelphia, PA 19101-8419.
- DLA200, X1—Defense Reutilization and Marketing Service, Federal Center, Battle Creek, MI 49016-3092.
- DLA400, TY—Defense General Supply Center, Richmond, VA 23297-5000.
- DLA410, XH—Defense General Supply Center, Base Support Branch, Richmond, VA 23297-5000.
- DLA420, XK—Defense General Supply Center, Educational Supplies Branch, Richmond, VA 23297-5000.
- DLA500, TZ—Defense Industrial Supply Center, 700 Robbins Avenue, Philadelphia, PA 19111-5096.
- DLA600, UA—Defense Fuel Supply Center, Cameron Station, Alexandria, VA 22304-6160.
- DLA700, UB—Defense Construction Supply Center, Columbus, OH 43216-5000.
- DLA710, YL—Defense Construction Supply Center, Commercial Services & Supplies Branch, Contracting Division II, Columbus, OH 43216-5000.
- DLA720, YM—Defense Construction Supply Center, Wood Products Branch, Contracting Division I, Columbus, OH 43216-5000.
- DLA8AC, UG—DCASMA, Santa Ana, 34 Civic Center Plaza, P.O. Box C 12700, Santa Ana, CA 92712-2700.
- DLA8AG, Z3—DCASPRO, Aero, Route 3, Box 9, Lake City, FL 32055-8705.
- DLA8AL, Y1—DCASMA, Atlanta, 805 Walker Street, Marietta, GA 30060-2789.
- DLA8AM, YQ—DCASPRO McDonnell Douglas, PO Box 600, Mailstop 12, Titusville, FL 32781-0600.
- DLA8AT, UL—DCASR, Atlanta, 805 Walker Street, Marietta, GA 30060-2789.
- DLA8BA, UN—DCASMA, Birmingham, 2121 8th Avenue North, Birmingham, AL 35203-2376.
- DLA8BC, UP—DCASMA, Bridgeport, Lordship Blvd., Stratford, CT 06497-5000.
- DLA8BL, Y4—DCASPRO AVCO Lycoming Division, 550 South Main Street, Stratford, CT 06497-7554.
- DLA8BM, UR—DCASMA, Baltimore, 300 East Joppa Road, Towson, MD 21204-3099.
- DLA8BN, US—DCASPRO, AT&T Technologies, Inc., 204 Graham Hopedale Road, Burlington, NC 27215-2941.
- DLA8BP, UT—DCASR, Boston, 495 Summer Street, Boston, MA 02210-2184.
- DLA8BS, Y3—DCASMA, Boston, 495 Summer Street, Boston, MA 02210-2184.
- DLA8BT, UU—DCASPRO, Bendix Corp., Route 46, Teterboro, NJ 07068-1173.
- DLA8BU, XC—DCASMA Buffalo, 1103 Federal Building, 111 W. Huron Street, Buffalo, NY 14202-2392.
- DLA8BV, YT—DCASPRO, General Electric, Lakeside Avenue, Burlington, VT 05401-4984.
- DLA8CD, UZ—DCASMA, Cedar Rapids, 1231 Park Place, NE., Cedar Rapids, IA 52402-1251.
- DLA8CH, UY—DSCASR, Chicago, O'Hare International Airport, P.O. Box 66475, Chicago, IL 60666-0475.
- DLA8CL, VB—DCASR, Cleveland, J. Celebrezze Federal Bldg., 1240 East Ninth Street, Cleveland, OH 44199-2064.
- DLA8CN, Y5—DCASMA, Cleveland, J. Celebrezze Federal Bldg., 1240 East Ninth St., Cleveland, OH 44199-2064.
- DLA8CO, X6—DCASPRO, Goodyear Aerospace, c/o Goodyear Aerospace Corp., 1210 Massillon Road, Akron, OH 44306-4136.
- DLA8CS, VE—DCASPRO, General Dynamics, 5001 Kearny Villa Road, P.O. Box 80847, San Diego, CA 92138-0847.
- DLA8DA, VG—DCASR, Dallas, 1200 Main Street, Dallas, TX 75202-4399.
- DLA8DB, Z7—DCASMA, Dallas, P.O. Box 50500, Dallas, TX 75250-5050.
- DLA8DC, VH—DCASMA, San Diego, Bldg. 4, AF Plant 19, 4297 Pacific Coast Highway, San Diego, CA 92110-3289.
- DLA8DD, U4—DCASPRO, Rockwell International Corporation, 3200 E Renner Rd., Richardson, TX 75081-6209.
- DLA8DM, Y7—DCASMA, Detroit, McNamara Federal Bldg., 477 Michigan Avenue, Detroit, MI 48226-2506.
- DLA8DN, VK—DCASMA, Denver, 750 W Hampden Ave., Suite 250, Englewood, CO 80110-2199.
- DLA8DP, VL—DCASMA, Dayton, c/o Defense Electronics Supply Center, Bldg. 1, Dayton, OH 45444-5300.

- DLA8EC, YP—DCASMA, Chicago, O'Hare International Airport, 6400 N. Mannheim Road, P.O. Box 66911, Chicago, IL 60666-0911.
- DLA8FL, VN—DCASPRO, ITT, Defense Group, 500 Washington Ave., Nutley, NJ 07110-3698.
- DLA8FS, VR—DCASPRO, FMC, 333 Brokaw Rd., P.O. Box 367, San Jose, CA 95103-0367.
- DLA8FT, Y2—DCASPRO, Ford Newport Beach, Admin Bldg., Rm. 313, Ford Road, Newport Beach, CA 92660-1400.
- DLA8GD, YB—DCASPRO, Gould, 18901 Euclid Ave., Cleveland, OH 44117-1388.
- DLA8GL, VV—DCASPRO, General Electric (27753), 1100 Western Ave., Lynn, MA 01910-0001.
- DLA8GM, VW—DCASMA, Grand Rapids, Riverview Center Bldg., 678 Front Street, NW., Grand Rapids, MI 49504-5352.
- DLA8GN, VX—DCASMA, Garden City, 605 Stewart Avenue, Garden City, NY 11530-4761.
- DLA8HB, WA—DCASPRO, Hayes Birmingham, Hayes International Corporation, P.O. Box 2583, Birmingham, AL 35202-2583.
- DLA8HC, WB—DCASMA, Hartford, 96 Murphy Road, Hartford, CT 06114-2173.
- DLA8HD, WC—DCASPRO, Singer, 25 Continental Dr., Wayne, NJ 07424-0400.
- DLA8HE, Z2—DCASPRO, Hayes (Dothan), Napier Field, Dothan, AL 36303-9236.
- DLA8HM, WD—DCASPRO, Honeywell, 2701 Fourth Ave. S, Minneapolis, MN 55408-1792.
- DLA8HR, Z9—(DCASMA-SF) Hawaii Residency, Federal Building, Room 4115, 300 Ala Moana Blvd., Honolulu, HI 96813-4908.
- DLA8HS, XT—DCASPRO, Hamilton Standard, Bradley Field, Windsor Locks, CT 06096-0463.
- DLA8HU, XG—DCASPRO, Hughes Aircraft Company, Bldg. 600, Mail Station B104, P.O. Box 3310, Fullerton, CA 92633-2177.
- DLA8JJ, WG—DCASMA, Indianapolis, Building 1, Fort Benjamin Harrison, Indianapolis, IN 46249-5701.
- DLA8JK, Z6—DCASPRO, GMC Detroit Diesel Allison, 2001 S Tibbs Ave., Indianapolis, IN 46241-4812.
- DLA8JL, X2—DCASPRO, Magnavox, 1616 Directors Row, Fort Wayne, IN 46808-1286.
- DLA8KA, XY—DCASPRO, Kaman Aerospace Corp., Old Windsor Road, Bloomfield, CT 06002-0002.
- DLA8LA, WL—DCASR, Los Angeles, 222 N Sepulveda Blvd., El Segundo, CA 90245-4320.
- DLA8LB, WM—DCASPRO, Litton, 5490 A Canoga Ave., Woodland Hills, CA 91367-6619.
- DLA8LC, Y8—DCASMA, El Segundo, 222 N Sepulveda Blvd., El Segundo, CA 90245-4320.
- DLA8LT, WN—DCASPRO, E-Systems, Inc., P.O. Box 379, Greenville, TX 75401-0379.
- DLA8MB, V1—DCASPRO, Harris Melbourne, 1485 Clearmont Street, NE., Palm Bay, Florida 32905-4093.
- DLA8MC, V2—DCASPRO, Rockwell International-MSD, P.O. Box 1367, Duluth, GA 30136-4099.
- DLA8MF, QF—DCASMA, San Juan, P.O. Box 34167, Ft. Buchanan, PR 00934.
- DLA8MH, X9—DCASPRO, McDonnell Douglas, Astronautics Co., 5301 Bolsa Avenue, Huntington Beach, CA 92647-2048.
- DLA8MM, XL—DCASPRO, Martin Marietta, Orlando Aerospace, P.O. Box 5837, Mail Point 49, Orlando, FL 32855-5837.
- DLA8MN, WQ—DCASMA, Twin Cities, 2305 Ford Parkway, St. Paul, MN 55116-1893.
- DLA8MW, WR—DCASMA, Milwaukee, S. Reuss Federal Bldg., Suite 340, 310 W. Wisconsin Ave., Milwaukee, WI 53203-2216.
- DLA8NC, WV—DCASMA, Ottawa, Journal Tower South 14th Floor, 365 Laurier Ave. West, Ottawa, ONT, Canada K1A 0S5.
- DLA8NF, WW—DCASMA, Orlando, 3555 Maguire Blvd., Orlando, FL 32803-3726.
- DLA8NH, YS—DCASPRO, Sanders Associates, Daniel Webster Highway S, P.O. Box 868, Nashua, NH 03061-0868.
- DLA8NJ, WT—DCASMA, Springfield, 240 Route 22, Springfield, NJ 07081-3170.
- DLA8NL, Z1—DCASMA, New Orleans, 13800 Old Gentilly Highway, Bldg. 350, P.O. Box 29283, New Orleans, LA 70189-2218.
- DLA8NM, YR—DCASPRO, IBM, Route 17C, Owego, NY 13827-1298.
- DLA8NN, YN—DCASPRO, Harris, 6801 Jericho Turnpike, Syosset, NY 11791-4465.
- DLA8NY, WU—DCASR, New York, 201 Varick Street, New York, NY 10014-4811.
- DLA8NZ, Y9—DCASMA, New York, 201 Varick Street, New York, NY 10014-4811.
- DLA8PA, WY—DCASMA, Phoenix, The Monroe School, 215 N 7th St., Phoenix, AZ 85034-1012.
- DLA8PH, XA—DCASR, Philadelphia, P.O. Box 7478, Philadelphia, PA 19101-7478.
- DLA8PL, X3—DCASMA, Philadelphia, P.O. Box 7699, Philadelphia, PA 19101-7699.
- DLA8PM, XB—DCASPRO, IBM Manassas, 9500 Godwin Drive, Manassas, VA 22110-4198.
- DLA8PP, XD—DCASMA, Pittsburgh, 1612 S Federal Bldg., 1000 Liberty Ave., Pittsburgh, PA 15222-4190.
- DLA8PR, X7—DCASPRO, RCA, Marne Highway and Borton Landing Road, Moorestown, NJ 08057-3095.
- DLA8PW, XE—DCASPRO, Ford Aerospace, 3939 Fabian Way, Palo Alto, CA 94303-4606.
- DLA8RB, XF—DCASPRO, Raytheon, Spencer Laboratory, Wayside Ave., Burlington, MA 01803-4608.
- DLA8RP, XM—DCASMA, Reading, 45 S Front Street, Reading, PA 19602-1094.
- DLA8SA, XN—DCASMA, San Antonio, 615 E. Houston, P.O. Box 1040, San Antonio, TX 78294-1040.
- DLA8SD, X8—DCASPRO, Sundstrand, P.O. Box 5066, Rockford, IL 61125-0066.
- DLA8SF, XR—DCASMA, San Francisco, 1250 Bayhill Drive, San Bruno, CA 94066-3070.
- DLA8SK, XQ—DCASPRO, Singer-Link, Kirtland Plant, Binghamton, NY 13902-1237.
- DLA8SL, XS—DCASR, St. Louis, 1136 Washington Avenue, St. Louis, MO 63101-1194.
- DLA8SN, XU—DCASMA, Syracuse, U.S. Courthouse & Federal Bldg., 100 S Clinton St., Syracuse, NY 13260-0115.
- DLA8ST, X5—DCASMA, St. Louis, 405 S Tucker Blvd Room 5101, St. Louis, MO 63102-1181.
- DLA8SW, XW—DCASMA, Seattle, Bldg. 5D, Naval Station, Seattle, WA 98115-5010.
- DLA8SY, XX—DCASPRO, GTE Communications Systems Corps. 360 First Ave., Needham, MA 02194-9123.
- DLA8TC, YF—DCASPRO, Teledyne CAE, 1330 Laskey Rd., P.O. Box 6971, Toledo, OH 43612-0971.
- DLA8TE, XZ—DCASPRO, Texas Instruments, Inc., P.O. Box 660246, MS 256, Dallas, TX 75266-0246.
- DLA8TO, U3—DCASPRO, McDonnell Douglas/Rockwell, 2000 North Memorial Dr., Tulsa, OK 74115-3833.
- DLA8VC, YC—DCASMA, Van Nuys, 6230 Van Nuys Blvd., Van Nuys, CA 91401-2713.
- DLA8WK, YD—DCASMA, Wichita, 435 Southwater, Wichita, KS 67202-3617.
- DLA8WR, YH—DCASPRO, Williams International 2280 West Maple Rd., Walled Lake, MI 48088-0200.
- DLA8WS, YG—DCASPRO, Westinghouse, 401 E Hendy Avenue, P.O. Box 499 MS 11-7, Sunnyvale, CA 94088-3499.
- DLA8WT, Z8—DCASPRO, Grumman, P.O. Drawer 1137, Stuart, FL 33495-1137.
- DLA8WU, VA—DCASPRO, Northrop, 600 Hicks Rd., Rolling Meadows, IL 60008-1098.
- DLA8WV, VD—DCASPRO, AM General, 701 W. Chippewa Ave., South Bend, IN 46680-2841.
- DLA900, UD—Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, OH 45444-5000.
- DLA910—Defense Electronics Supply Center, Base Contracting Section, 1507 Wilmington Pike, Dayton, OH 45444-5000.

Defense Mapping Agency

- DMA600, BQ—Defense Mapping Agency, Systems Center, 8301 Greensboro Drive—Suite 800, McLean VA 22102-3692.
- DMA650—Defense Mapping Agency, Inter-American Geodetic Survey, Fort Sam Houston, TX 78234-5000.
- DMA700, 8Y—Defense Mapping Agency, Aerospace Center, 3200 South Second Street, St. Louis, MO 63118-3399.
- DMA800, YZ—Defense Mapping Agency, Hydrographic/Topographic Center, 6500 Brooks Lane, Washington, DC 20315-0030.
- DMA920—Director, DMA Distribution Center, Clearfield, UT 84016-1292.

Defense Communications Agency

- DCA100—Defense Communications Agency, Washington, DC 20305.
- DCA200—Defense Communications Agency, Defense Commercial Communications Office, Scott AFB, IL 62225.
- DCA300—DECCO-PAC, 1154 Bishop Street, Honolulu, HI 96813.
- DCA400—DECCO-EUR, APO New York, NY 09136-5000.

Defense Nuclear Agency

- DNA001, 8Z—Defense Nuclear Agency, Washington, DC 20305.
- DNA002, 9Z—Headquarters Field Command, Defense Nuclear Agency, Kirtland AFB, NM 87115.
- DNA004—Armed Forces Radiobiology Research Institute, Defense Nuclear Agency, Bethesda, MD 20014.

Strategic Defense Initiative Organization

- SDI084—Strategic Defense Initiative Organization, Washington, DC 20301-7100

Miscellaneous Defense Activities

MDA902—American Forces Radio and Television Service, 1016 North McCadden Place, Los Angeles, CA 90038.
 MDA903, F7—Defense Supply Service—Washington, Room 1D245, The Pentagon, Washington, DC 20310.
 MDA904, BE—Maryland Procurement Office, Procurement & Production Directorate, 9800 Savage Road, Fort George G. Meade, MD 20755.
 MDA905—Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, MD 20014.
 MDA906—Reserved for CHAMPUS.
 MDA907—Menwith Hill Station, Harrogate, Yorkshire, England.
 MDA908—Virginia Contracting Activity, P.O. Box 46353, Washington, DC 20050-6563.
 [FR Doc. 8-22070 Filed 9-28-88; 8:45 am]
 BILLING CODE 3810-01-M

48 CFR Parts 227 and 252

[Defense Acquisition Circular (DAC) 86-13]

Department of Defense Federal Acquisition Regulation Supplement; Status of Interim Rule

AGENCY: Department of Defense (DoD).
ACTION: Interim rule; Status.

SUMMARY: Defense Acquisition Circular (DAC) 86-13 confirms the status of DoD FAR Supplement (DFARS) with respect to Patents, Data, and Copyrights published on April 1, 1988 (53 FR 10780) and corrected on June 6, 1988 (53 FR 20632) and June 16, 1988 (53 FR 22609).
EFFECTIVE DATE: April 2, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION**A. Background**

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-5.

B. Public Comments

Notices of proposed rules were published in the **FEDERAL REGISTER** requesting Government agencies, private firms, associations, and the general public to submit comments to be considered in the formulation of the final rule.

C. Regulatory Flexibility Act

An interim rule with request for comments was published in the **Federal Register** on April 1, 1988 (53 FR 10780) and corrected on June 6, 1988 (53 FR 20632) and June 16, 1988 (53 FR 22609), and an Initial Regulatory Flexibility Analysis was provided to the Chief Counsel for Advocacy of the U.S. Small Business Administration. Comments received from the public concerning the Analysis will be considered in drafting a final rule and in performing a Final Regulatory Flexibility Analysis.

D. Paperwork Reduction Act

The interim rule contains information collection requirements within the meaning of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Accordingly, an information collection clearance request has been submitted to OMB pursuant to 5 CFR 1320.13.

List of Subjects in 48 CFR Parts 227 and 252

Government procurement.
 Charles W. Lloyd,
Executive Secretary, Defense Acquisition Regulatory Council.
 [FR Doc. 88-22071 Filed 9-28-88; 8:45 am]
 BILLING CODE 3810-01-M

48 CFR Parts 201, 203, 204, 209, 215, 222, 223, 225, 231, 233, 235, 242, and 252

[Defense Acquisition Circular (DAC) 86-14]

Department of Defense Federal Acquisition Regulation Supplement

AGENCY: Department of Defense (DoD).
ACTION: Final rule and interim rule as indicated (Item III).

SUMMARY: Defense Acquisition Circular (DAC) 86-14 amends the DoD FAR Supplement (DFARS) with respect to ratification of unauthorized commitments; conflicts of interest in Defense procurement (former DoD employees); safeguarding conventional arms, ammunition and explosives (AA&E) within industry; Truth-in-Negotiations Act; prenegotiation objectives; excepted articles, materials, and supplies (aluminum clad steel wire); customs and duties; penalties for unallowable costs; deletions from the DFARS and editorial changes.
EFFECTIVE DATE: May 15, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A)(M&RS), Room 3D139, The Pentagon,

Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:**A. Background**

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 and 86-5.

B. Public Comments**DAC 86-14, Items II, III, IV, and VIII**

Notices of proposed rules were published in the **Federal Register** requesting Government agencies, private firms, associations, and the general public to submit comments to be considered in the formulation of the final rule.

DAC 86-14, Items I, V, VI, VII, IX, and X

Public comments were not solicited with respect to these revisions since such revisions (a) do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or (b) do not have a significant effect beyond agency internal operating procedures; or compelling reasons required issuance of an interim rule without prior publication for public comment. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88-610D.

C. Regulatory Flexibility Act**DAC 86-14, Items I, V, VI, VII, IX, and X**

These revisions are not "significant revisions" as defined in FAR 1.501-1; i.e., they do not alter the substantive meaning of any coverage in the DFARS having a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations, solicitation of agency and public views on these revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

DAC 86-14, Item II

The Department of Defense certifies that the coverage at 203.170 and 252.203-7002 impacts only an insubstantial number of small entities, if any, because

of the \$10 million threshold for application to a contractor.

DAC 86-14, Item III

The Department of Defense certifies that this rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq. A regulatory flexibility analysis has therefore not been performed.

DAC 86-14, Item IV

This rule does not have a significant impact on a substantial number of small entities because it applies to contracts requiring submission and certification of cost or pricing data, and a substantial number of small entities do not submit cost or pricing data.

DAC 86-14, Item VIII

The Department of Defense certifies that the additions to DFARS 231, 242, and 252 will not have a significant impact on a substantial number of small entities because no contractors should be putting clearly unallowable costs in their billing rates. Furthermore, the penalties are prescribed by law.

D. Paperwork Reduction Act

DAC 86-14, Items I and IV through X

The Paperwork Reduction Act does not apply because these final rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

DAC 86-14, Item II

A Paperwork Reduction Act Clearance request with full justification was submitted to OMB on July 9, 1987. OMB approved the request for clearance number 07804-0225. The changes made as a result of this final rule do not have an impact on the OMB approval clearance.

DAC 86-14, Item III

This rule incorporates previously established information collection requirements within the meaning of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., as implemented by regulations prescribed within 5 CFR Part 1320, and does not require additional information collection efforts by contractors. Accordingly, the Act is inapplicable and approval by OMB is not required. Notwithstanding the inapplicability of the Act, the rule has been adopted in a manner consistent with DoD policy of reducing paperwork burdens on the public by directing that contracting officers provide a copy of DoDI 5220.30 to contractors/offers on request.

List of Subjects in 48 CFR Parts 201, 203, 204, 209, 215, 222, 223, 225, 231, 233, 235, 242, and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[Defense Acquisition Circular No. 86-14]

May 15, 1988.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective May 15, 1988.

Defense Acquisition Circular (DAC) 86-14 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Ratification of Unauthorized Commitments (Deletion of DFARS 201.670)

DFARS 201.670, Ratification of Unauthorized Commitments, is deleted because the coverage appears in the FAR.

Item II—Conflicts of Interest in Defense Procurement (Former DoD Employees)

Section 931 of the Defense Acquisition Improvement Act of 1986, Pub. L. 99-500, as amended, prohibits major defense contractors (i.e., those awarded contracts aggregating \$10 million or more during the previous government fiscal year) from offering compensation or providing compensation either directly or indirectly to certain former DoD officials or employees, who, within two years prior to their separation from DoD, had certain procurement responsibilities with respect to that contractor. The substance of this statute was implemented within DoD by DoD Directive 5500.7 Standards of Conduct. This DAC provides coverage at 203.170 and a new clause at 252.203-7002 to implement both the public law and the DoD Directive. An interim rule with request for comments was published in the *Federal Register* on April 16, 1987 (52 FR 12383), and a correction was published on May 28, 1987 (52 FR 19870). Comments were received, proposing a few clarifying revisions to the coverage. The majority of the comments were adopted. No comments objected to the coverage.

Item III—Safeguarding Conventional Arms, Ammunition and Explosives (AA&E) Within Industry

Changes are made to the DFARS to

provide guidance to ensure that the physical security standards prescribed by DoDI 5220.30 are incorporated within DoD contracts involving the manufacture or use of arms, ammunition, and explosives. The revisions include a contract clause which highlights principal aspects of DoDI 5220.30 such as (a) the requirement that contractors allow representatives of the Defense Investigative Service (DIS) and the DoD Inspector General access to facilities at reasonable times for compliance reviews, and (b) the requirement that subcontractors must comply with DoDI 5220.30 where subcontracts involve arms, ammunition or explosives. These changes became effective October 1, 1987, and will expire on January 1, 1989, unless sooner rescinded. An interim rule with request for comment was published on November 21, 1986 (51 FR 42095). Extensions of the interim rule and request for comment was published on October 1, 1987 (52 FR 36774) and August 26, 1988 (53 FR 32620).

Item IV—Truth-in-Negotiations Act

DFARS 215.804 is revised to incorporate amendments to the Truth-in-Negotiations Act required by section 952 of the FY 1987 Department of Defense Authorization Act (Pub. L. 99-500). Editorial corrections are made to change the designation of "Procuring Activity" to "Contracting Activity". A proposed rule with request for comments was published in the *Federal Register* on July 14, 1987 (52 FR 26363), and a correction was published on July 24, 1987 (52 FR 27902). Comments received was considered.

Item V—Prenegotiation Objectives

At the direction of the Secretary of Defense, DoD Directive 7640.2, Policy for Followup on Contract Audit Reports, has been recently revised to eliminate any perception that the authority of DoD contracting officers was being unduly restricted. One of the major changes to the Directive is that procedures of DoD Components for documenting and reviewing the contracting officer's prenegotiation objectives have replaced the requirement for a separate review by a Designated Independent Senior Acquisition Official (DISAO) of differences between the contracting officer and auditor. However, to ensure the adequacy of Prenegotiation review or clearance procedures of DoD Components, changes have been made to DFARS 215.807 and 215.88.

Item VI—Excepted Articles, Materials, and Supplies (Aluminum Clad Steel Wire)

It has been determined that aluminum clad steel wire is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality. DFARS 225.108(d)(1) is revised to add aluminum clad steel wire to the list of excepted articles, materials, and supplies.

Item VII—Customs and Duties

DAC 84-7, Item VIII, revised DFARS 225.6, Customs and Duties. The revisions included a change to the prescription for the use of DFARS 252.225-7007, from its use as a clause when the contracting officer knows at the time of execution of the contract that foreign supplies are to be imported for the performance of the contract, to its use as a solicitation provision whenever the clause at FAR 52.225-10 is used which is in all contracts over \$100,000. After a review of the revisions made to 225.6 by DAC 84-7, it was concluded that there was no substantive reason for the above change. This DAC provides changes to 225.603, 225.605, and 252.225-7007, to correct the error.

Item VIII—Penalties for Unallowable Costs

The Department of Defense Authorization Act, 1986 (Pub. L. 99-145), amended Title 10 of the United States Code by adding new section 2324, Allowable Costs Under Defense Contracts, which contains provisions regarding contractor submittal of proposals for settlement of final indirect costs. Included in these provisions is authority for DoD to assess certain penalties when contractors submit unallowable costs in final indirect rate proposals. To implement the penalty provisions of the law, DFARS is revised to add a new Subpart 231.70, Penalties for Unallowable Costs, a related clause at 252.231-7001, and a new section 242.771. An interim rule with request for comment was published on February 26, 1987 (52 FR 5770), and a correction was published on June 25, 1987 (52 FR 23835). After reviewing the comments, the DAR Council amended the interim rule by clarifying the language in several places to address concerns that the proposed language could be interpreted so that penalties would be assessed for submittal of costs which do not meet the intent of the public law and to state who has the authority for imposing the penalty under 231.7001(a)(3)(iii).

Item IX—Deletions from the DFARS (Duplication of FAR)

DFARS 201.603-1 and 233.270 are deleted because the coverage is a duplication of FAR coverage.

Item X—Editorial Corrections

Editorial corrections are made as follows:

Paragraph	Reason for correction
208.472-1 (c) through (f).	Delete paragraph (c) (repetition of paragraph (b)); (d) through (f) redesignated as (c) through (e).
216.503	To reflect correct designation of section (erroneously shown as 215.503).
222.804-2(b)	Delete the Defense Civil Preparedness Agency.
222.805(a)(2)	Change the reference to FAR 22.609.
222.1406	Change the reference to FAR 22.609.
235.003(a)	Change the citation to 10 U.S.C. 2358.
252.205-7000	Change the date of the clause from FEB 1988 to MAR 1988.

Adoption of Amendments

Therefore the DoD Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 201, 203, 204, 209, 215, 222, 223, 225, 231, 233, 235, 242, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

201.602 [Removed]

2. Sections 201.602 and 201.602-1 are removed.

201.670 [Removed]

3. Sections 201.670 and 201.670-1 through 201.670-5 are removed.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

The interim rule published on April 16, 1987 (52 FR 12383) and corrected on May 28, 1987 (52 FR 19870) is adopted as final with the following changes:

203.170-1 [Amended]

4. Section 203.170-1 is amended by adding in the first sentence of the definition "Compensation" between the word "payment" and the word "and" the words "gift, benefit, reward, favor, or gratuity,"; by adding in the second sentence of the definition "Compensation" between the word

"individual" and the word "in" the word "specifically"; by revising the first word of the definition "Designated Agency Ethics Official (DAEO)" to read "Defense"; by changing the period to a comma at the end of the definition "Defense Agency Ethics Official (DAEO)" and adding the words "as amended."; by substituting in the definition "Former DoD Employee" the word "was" in lieu of the word "is"; by removing in the definition "Former DoD Employee" the words "Step 1"; by adding in the first sentence of the definition "Former DoD official" between the word "means" and the colon the words "the following"; by substituting in paragraph (a) of the definition "Former DoD official" the word "was" in lieu of the word "is"; by removing in the definition "Former DoD official" the words "Step 1"; by removing in paragraph (a)(1) of the definition "Former DoD official" between the word "of" and the word "working" the word "their"; by substituting in paragraph (a)(1) of the definition "Former DoD official" between the word "of" and the word "performance" the words "such person's" in lieu of the word "their"; by substituting in paragraph (a)(2) of the definition "Former DoD official" between the word "of" and the word "working" the words "the person's" in lieu of the word "their"; by substituting at the beginning of paragraph (b) of the definition "Former DoD official" the words "An individual" in lieu of the word "Individuals"; by substituting in paragraph (b) of the definition "Former DoD official" between the word "and" and the word "who" the words "an individual" in lieu of the word "individuals"; by substituting in paragraph (b)(1) of the definition "Former DoD official" between the word "as" and the word "of" the words "one of the primary representatives" in lieu of the words "a primary representative"; by substituting in paragraph (b)(1) of the definition "Former DoD official" between the word "action" and the word "must" the words "in which the individual was involved" in lieu of the words "taken by the individual"; by substituting in the first sentence of paragraph (b)(2) of the definition "Former DoD official" between the word "as" and the word "of" the words "one of the primary representatives" in lieu of the words "a primary representative"; by adding in paragraph (a) of the definition "Major defense system" between the word "dollars" and the word "or" the words "or the eventual total expenditure for procurement is estimated to exceed \$300 million (based

on fiscal year 1980 constant dollars); and by adding in the first sentence of the definition "Primary Government representative" between the word "official" and the word "supervising" the words "or officials".

5. Section 203.170-2 is revised to read as follows:

203.170-2 Policy.

(a) 10 U.S.C. 2397b prohibits former DoD officials who left DoD service on or after 16 April 1987 and who performed procurement-related functions in connection with a major defense contractor from accepting compensation from that same contractor for a period of two years after such officials have left service with DoD. Related implementation of the statute for the DoD may be found in DoD Directive 5500.7, Standards of Conduct.

(b) 10 U.S.C. 2397c requires that each contract entered into by DoD for the procurement of goods or services in excess of \$100,000 contain a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by that person would violate section 2397b(a).

203.170-3 [Amended]

6. Section 203.170-3 is amended by adding in the last sentence between the word "April" and the word "following" the words "of the year".

203.170-4 [Amended]

7. Section 203.170-4 is amended by substituting in paragraph (a)(1) between the word "for" and the word "the" the words "knowingly offering or providing compensation to another person with knowledge that acceptance of that compensation is or would be in violation of" in lieu of the words "failure to comply with"; by removing at the end of paragraph (a)(2) the words "and/or"; and by changing the semi-colon to a period at the end of paragraphs (a)(1) and (a)(2).

PART 204—ADMINISTRATIVE MATTERS

The interim rule published on October 1, 1987 (52 FR 36775) is adopted as final, with the following change:

204.202 [Amended]

8. Section 204.202 is amended by substituting in paragraph (c)(6) the reference "223.7105" in lieu of the reference "223.7103".

PART 209—CONTRACTOR QUALIFICATIONS

209.472-1 [Amended]

9. Section 209.472-1 is amended by removing the existing paragraph (c) and by redesignating the existing paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e) respectively.

PART 215—CONTRACTING BY NEGOTIATION

10. Section 215.804-1 is added to read as follows:

215.804-1 General.

(a) Partial or limited data may be requested when less than complete cost analysis (e.g., analysis of only specific factors) will provide a reasonable pricing result on awards under \$100,000 without the submission of complete cost or pricing data. The contracting officer shall request only that data which the contracting officer considers adequate to support the limited extent of the cost analysis required.

215.804-2 [Amended]

11. Section 215.804-2 is amended by removing paragraph (a)(2).

215.804-3 [Amended]

12. Section 215.804-3(i) is amended by substituting in the first sentence the citation "2306a(a)(5)" in lieu of the citation "2306(f)"; by removing at the end of the first sentence the words "clauses required by FAR 52.214-27 and 52.215-25" and substituting the words "required clauses"; by substituting in the second sentence the word "Contracting" in lieu of the word "Procuring"; by adding in the first sentence of the format entitled "Determination and Findings" after the word "head" the numeral "(1)"; by substituting in the same sentence the citation "2306a(a)(5)" in lieu of the citation "2306(f)"; by substituting in Note (1) of the "NOTES" at the end of the format entitled "Determination" the word "contracting" in lieu of the word "procuring"; and by substituting in Note (2) of the "NOTES" at the end of the format the word "Contracting" in lieu of the words "Procuring or contracting".

13. Section 215.807 is revised to read as follows:

215.807 Prenegotiation objectives.

(b) Prenegotiation objectives, including objectives related to disposition of findings and recommendations contained in preaward and postaward contract audit and other advisory reports, will be documented and reviewed in accordance with Departmental procedures.

14. Section 215.808 is amended by adding paragraph (a)(9) to read as follows:

215.808 Price negotiation memorandum.

(a)(9) Include the principal factors related to the disposition of findings and recommendations contained in preaward and postaward contract audit and other advisory reports.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

222.804-2 [Amended]

15. Section 222.804-2 is amended by adding in paragraph (b) between the words "Defense Nuclear Agency;" and the words "Staff Director of Logistics," the word "and"; by changing the semi-colon to a period after the words "Defense Mapping Agency"; and by removing the remainder of the sentence.

222.805 [Amended]

16. Section 222.805 is amended in paragraph (a)(2) by revising the reference "222.609" to read "FAR 22.609".

222.1406 [Amended]

17. Section 222.1406 is amended in the first sentence by revising the words "(see 22.609)" to read "(see FAR 22.609)".

PART 223—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

The interim rule published on October 1, 1987 (52 FR 36774) is adopted as final, with the following change:

223.7105 [Amended]

18. Section 223.7105 is amended by substituting in the first sentence between the word "involving" and the words "AA&E" the word "any" in lieu of the word "an".

PART 225—FOREIGN ACQUISITION

225.108 [Amended]

19. Section 225.108 is amended by adding to paragraph (d)(1) before the listing "Sperm oil" the listing "Aluminum clad steel wire."

225.603 [Amended]

20. Section 225.603 is amended by revising paragraph (a)(2) to read: "When the clause at FAR 52.225-10 or at 252.225-7008 is used, the contracting officer shall insert the clause at 252.225-7007."

225.605 [Amended]

21. Section 225.605 is amended by adding in the first sentence of paragraph (a) between the reference "FAR 52.225-10," and the word "the" the words "or at 252.225-7008,"; by substituting in the first sentence of paragraph (a) the words "shall include the clauses" in lieu of the words "shall include the clause"; and by removing in the first sentence of paragraph (a) between the word "and" and the reference 252.225-7007" the words "the provision at".

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

The interim rule published on February 26, 1987 (52 FR 5770) is adopted as final with the following change:

22. Section 231.7001 is amended by revising paragraphs (a), (b) and (c)(1), (2) (i), (ii) and (ii)(A) to read as follows:

§ 231.7001 Penalties for unallowable costs.

(a) *General.* (1) 10 U.S.C. 2324 (a) through (d) prescribes the assessment of penalties when contractors submit unallowable costs in proposals for settlement of indirect costs under covered Department of Defense contracts. Covered contracts include all Department of Defense contracts awarded after February 26, 1987, in excess of \$100,000 other than fixed-price contracts without cost incentives. Covered contracts will contain either the clause at 252.231-7001 or the clause at 262.231-7002. It is not necessary that unallowable costs have been paid to the contractor in order to assess a penalty.

(2) An unallowable cost is defined at FAR 31.001.

(3) The law provides for the following penalties:

(i) If the cost is unallowable based on clear and convincing evidence, the penalty is equal to (A) the amount of the disallowed cost plus (B) interest on the paid portion, if any, of the disallowance.

(ii) If the cost was determined to be unallowable before proposal submission, the penalty is equal to (A) the amount in (a)(3)(i) above plus (B) two times the amount of the disallowed cost.

(iii) If any penalty is assessed under paragraph (a)(3) (i) or (ii) above, an additional penalty of not more than \$10,000 per proposal may be assessed.

(4) These penalties are in addition to other civil and criminal penalties provided by law.

(5) Not every claim for unallowable costs is evidence of a false or fraudulent claim, but if evidence exists that the contractor knowingly submitted

unallowable costs, the agency should refer the matter to the appropriate Defense criminal investigative organization for review. Subsequent agency actions regarding such matters shall be taken in accordance with DoDD 7050.5, "Coordination of Remedies for Fraud and Corruption Relating to Procurement Activities".

(b) *Responsibilities.*—(1) *Contracting officer.* (i) The cognizant administrative contracting officer (ACO) is responsible for determining whether the penalties in paragraphs (a)(3) (i) and (ii) above should be assessed. This determination should be based upon a review of all relevant facts including, as appropriate, comments from the contractor.

(ii) The ACO is responsible for initiating recommendations that the penalty under paragraph (a)(3)(iii) be assessed.

(2) *Agency.* (i) Agencies are responsible for designating officials authorized to assess the penalty in paragraph (a)(3)(iii).

(ii) Agencies are responsible for establishing requirements for documentation and review of ACO determinations to assess the penalties in paragraphs (a)(3) (i) and (ii), and ACO recommendations to assess the penalty in paragraph (a)(3)(iii).

(3) *Contract auditor.* The contract auditor, in review and/or determination of final rate proposals for covered contracts, shall recommend to the ACO which costs may be unallowable and subject to the penalties in paragraphs (a)(3) (i) and (ii). Any recommendation shall include the auditor's rationale and supporting documentation.

(c) *Guidelines.*—(1) *Assessing the penalty.* (i) The ACO shall assess the penalty in paragraph (a)(3)(i) when the submitted cost is unallowable based on clear and convincing evidence.

(ii) The ACO shall also assess the penalty in paragraph (a)(3)(ii) when the submitted cost was determined to be unallowable prior to submission of the proposal. Prior determinations of unallowability may be evidenced by the following documentation:

(A) A DCAA Form 1 (see FAR 42.705-27 which: (1) the contractor elected not to appeal; or (2) was not withdrawn by DCAA.

(B) A contracting officer final decision which was not appealed.

(C) Prior ASBCA or Court decision which upheld a cost disallowance involving the contractor.

(D) Any determination of unallowability under the procedures provided in FAR 31.201-6, Accounting for unallowable costs.

(iii) The ACO shall issue a demand letter (see FAR 33.211) to the contractor

for payment of any penalty assessed under paragraph (a)(3)(i) or (a)(3)(ii) above. The letter shall state that the determination is a final decision under the Disputes clause of the contract. (Demanding payment of the applicable penalty is separated from demanding repayment of the paid portion of the disallowed cost.)

(iv) The designated official, after receiving the ACO's recommendation and where circumstances warrant the additional penalty, may assess the penalty in paragraph (a)(3)(iii) above. Appropriate circumstances may include repeated submission of unallowable costs.

(2) *Computing the penalty.* (i) The amount of the disallowed costs subject to penalty is the amount submitted in the contractor's proposal which is allocated to the covered contracts (see paragraph (a)(1)) and which is determined to be unallowable, based on clear and convincing evidence by the contracting officer.

(ii) Interest is to be computed on the paid portion of the disallowed cost.

(A) The overpayment may be considered to have occurred, and interest to start running, from the midpoint of the contractor's fiscal year. An alternate equitable method should be used if the cost was not incurred and paid evenly over the fiscal year.

(B) The interest rate specified by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97) shall be used.

PART 233—PROTESTS, DISPUTES, AND APPEALS**§ 233.270 [Removed]**

23. Section 233.270 is removed.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING**§ 235.003 [Amended]**

24. Section 235.003 is amended by changing the reference in paragraph (a) to read "10 U.S.C. 2358" in lieu of "42 U.S.C. 1891".

PART 242—CONTRACT ADMINISTRATION

The interim rule published on February 26, 1987 (52 FR 5772) is adopted as final, with the following changes:

25. Section 242.771 is revised to read as follows:

242.771 Penalties for unallowable costs.

(a) 10 U.S.C. 2324 (a) through (d) prescribes penalties for submission of

unallowable costs in proposals for settlement of indirect costs under Department of Defense contracts. (See Subpart 231.70.)

(b) The ACO shall review all costs submitted in the contractor's proposal which are subsequently disallowed by the Government to determine whether a penalty should be assessed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

The interim rule published on April 16, 1987 (52 FR 12383) and corrected on May 28, 1987 (52 FR 19870) is adopted as final with the following changes:

26. Section 252.203-7002 is amended by adding in the title of the clause between the word "Former" and the word "(DoD)" the words "Department of Defense"; by changing the date of the clause to read "APR 1988" in lieu of "APR 1987"; by substituting in the first sentence of paragraph (b)(1) of the clause between the word "of" and the word "to" the words "two hundred fifty dollars (\$250)" in lieu of the figure "\$250"; by adding in the first sentence of paragraph (b)(1) of the clause between the word "official" and the word "who," the words "who left DoD service on or after April 16, 1987 and"; by revising paragraph (c) of the clause; by substituting at the end of paragraph (d)(1) of the clause after the word "exceed" the words "five hundred thousand dollars (\$500,000)" in lieu of the figure "\$500,000"; by substituting in paragraph (d)(2)(i) of the clause between the word "either" and the word "amount" the words "one hundred thousand dollars (\$100,000) or three (3) times the total" in lieu of the words "\$100,000 or three times the"; by adding in paragraph (d)(2)(i) of the clause between the word "official" and the word "in" the words "during the period in which such compensation was"; and by substituting at the end of the first sentence of paragraph (d)(3) after the word "exceed" the words "ten thousand dollars (\$10,000)" in lieu of the figure "\$10,000", to read as follows:

252.203-7002 [Amended]

(c) Report concerning former DoD employees. (1) The Contractor shall submit a separate written report, as described in paragraph (c)(2) below, for each calendar year covered by this contract (commencing with the calendar year of award and extending through the end of the calendar year in which final payment is made) if the calendar year commenced after the end of a Government fiscal year in which the

Contractor was awarded one or more DoD contracts aggregating ten million dollars (\$10,000,000) or more. In multidivisional corporations, in addition to corporate headquarters, each segment which contracts directly with the Government shall separately submit such reports. Each report shall be submitted to the Office of the Assistant General Counsel (Legal Counsel), Standards of Conduct Office, Attn: OAGC/LC, Pentagon, Washington, DC 20301-1600 listing those persons in its employ or whom it has otherwise compensated, who are former DoD employees who left service on or after April 16, 1987, if—

(i) They served in a civilian position for which the rate of pay was equal to or greater than the minimum rate of pay for Grade GS-13 of the General Schedule or served in the Armed Forces in a pay grade of O4 higher;

(ii) They were compensated by the Contractor during the reporting period; and

(iii) Such compensation was provided within two (2) years after the former DoD employee left service in the Department of Defense.

(2) The report shall contain the following elements:

(i) Each individual's name and an identification of the agency in which each individual was employed or served on active duty during the last two (2) years of the individual's service with DoD;

(ii) Each individual's job title(s) during the person's last two (2) years of service with DoD and a list of major defense systems on which each individual performed any work;

(iii) A complete description (exclusive of proprietary information) of any work that each individual is performing, or did perform, on behalf of the Contractor during the calendar year covered by the report (If the procurement is classified, the Contractor may use a generalized description which will not compromise the classified nature of the work.);

(iv) An identification of each major defense system on which each individual has performed any work on behalf of the Contractor.

(3) Each report required under paragraph (c)(1) above shall be submitted not later than April 1 of the year following the end of the calendar year for which the report is being made.

252.205-7000 [Amended]

27. Section 252.205-7000 is amended by changing the date of the clause to read "MAR 1988" in lieu of "FEB 1988".

28. The interim rule published on October 1, 1987 (52 FR 36774) is adopted as final, without change.

252.225-7007 [Amended]

29. Section 252.225-7007 is amended by changing the date of the clause to read "APR 1988" in lieu of "DEC 1985"; and by adding in the clause between the word "Entry," and the word "the" the words "and/or paragraph (b) of the clause entitled 'Duty-Free Entry—Qualifying Country End Products and Supplies,'".

The interim rule published on February 26, 1987 (52 FR 5770), and corrected on June 25, 1987 (52 FR 23835), is adopted as final, with the following changes:

30. Section 252.231-7001 is amended by changing the date in the clause to read "APR 1988" in lieu of "FEB 1987"; by adding in the first sentence of paragraph (a) of the clause between the word "submit" and the word "final" the word "proposed"; by substituting in the second sentence of paragraph (a) of the clause between the word "in" and the word "of" the words "Sections 31.001 and 31.201-6" in lieu of the words "section 31.001"; by substituting in the first sentence of paragraph (b) of the clause between the word "settlement" and the word "indirect" the word "of" in lieu of the word "for"; by removing in the first sentence of paragraph (b) of the clause between the word "unallowable" and the word "the" the words "in accordance with paragraph (a) above"; by substituting in paragraph (b)(2) of the clause between the word "the" and the word "the" the word "amount" in lieu of the word "funds"; by revising paragraph (c) of the clause; by substituting at the beginning of paragraph (d) of the clause the words "An assessment" in lieu of the words "The determination of the Contracting Officer"; by removing in paragraph (d) of the clause between the letter "(c)" and the word "is" the word "above"; by substituting in paragraph (d) of the clause between the word "decision" and the word "of" the words "within the meaning" in lieu of the words "for the purpose of section 6"; by substituting in paragraph (d) of the clause between the year "1978" and the word "and" the reference "[41 U.S.C. 605, et seq.]" in lieu of the reference "(41 U.S.C. 605)"; by substituting in paragraph (e) of the clause between the word "than" and the word "per" the words "ten thousand dollars (\$10,000)" in lieu of the dollar figure "\$10,000"; and by adding in paragraph (e) of the clause between the word "under" and the letter "(b)" the word "paragraph", to read as follows:

252.231-7001 [Amended]

(c) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal for settlement of indirect costs incurred includes a cost previously determined to be unallowable for the Contractor, then the Contracting Officer will assess an additional penalty in an amount equal to two times the amount of the unallowable cost.

31. Section 252.231-7002 is amended by adding between the word "Fixed-Price" and the period at the end of the title of the section the word "Incentive"; by changing the date of the clause to read "APR 1988" in lieu of "FEB 1987"; by adding in the first sentence of paragraph (c) of the clause between the word "that" and the word "cost" the word "a"; by removing in the first sentence of paragraph (c) of the clause between the word "unallowable" and the word "the" the words "in accordance with paragraph (a) above"; by substituting in paragraph (c)(2) of the clause between the word "the" and the word "the" the word "amount" in lieu of the word "funds"; by placing a period in paragraph (c)(2) of the clause after the word "entitled" and removing the remainder of the sentence; by substituting in the last sentence of paragraph (c) of the clause between the word "computed" and the word "the" the word "under" in lieu of the word "using"; by revising paragraph (d) of the clause; by removing in paragraph (e) of the clause between the letter "(d)" and the word "is" the word "above"; by substituting in paragraph (e) of the clause between the word "decision" and the word "of" the words "within the meaning" in lieu of the words "for the purpose of section 6"; by substituting in paragraph (e) of the clause after the year "1978" the reference "(41 U.S.C. 605, et seq.)" in lieu of the reference "(41 U.S.C. 605)" and removing the remainder of the sentence; and by substituting in paragraph (f) of the clause between the word "than" and the word "per" the words "ten thousand dollars (\$10,000)" in lieu of the dollar figure "\$10,000", to read as follows:

252.231-7002 Penalties for unallowable costs—fixed-price incentive.

(d) If the Contracting Officer determines that a cost submitted by the Contractor in a proposal for settlement of indirect costs incurred includes a cost previously determined to be unallowable for the Contractor, then the Contracting Officer will assess an additional penalty in an amount equal to

two times the amount of the unallowable cost.

[FR Doc. 88-22072 Filed 9-28-88; 8:45 am]
BILLING CODE 3810-01-M

48 CFR Parts 203, 204, 205, 206, 208, 213, 214, 217, 219, 226, 235, 242, 247, and 252

[Defense Acquisition Circular (DAC) 86-15]**Department of Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments**

AGENCY: Department of Defense (DoD).

ACTION: Interim rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-15 amends the DoD FAR Supplement (DFARS) with respect to display of DoD Hotline Poster; implementation of Section 1207 of Pub. L. 99-661 and Section 806 of Pub. L. 100-180; contracting with small disadvantaged business concerns (SDBs), Historically Black Colleges and Universities (HBCUs) and Minority institutions (MIs); Contractor and Government Entity (CAGE) Code; preparation and transmittal of synopses of proposed contract actions; evaluation of options; multiyear procurements; undefinitized contractual actions; voluntary refunds; editorial corrections; and includes an information item with respect to certification of technical data conformity by educational institutions.

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A) (M&RS), Room 3D 139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266

SUPPLEMENTARY INFORMATION:**A. Background**

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-5.

B. Public Comments**DAC 86-15, Item I**

Public comments were not solicited with respect to this item because it is an information item.

DAC 86-15, Items II, VI, VII, VIII, and IX

Public comments are not required with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures; or compelling reasons required issuance of an interim rule without prior publication for public comment. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88-610D.

DAC 86-15, Items III and X

Notices of proposed rules were published in the Federal Register requesting Government agencies, private firms, associations, and the general public to submit comments to be considered in the formulation of the final rule. Comments were received.

DAC 86-15, Items IV, V, and XI

Public comments were not solicited with respect to these revisions since they are editorial in nature.

C. Regulatory Flexibility Act**DAC 86-15, Item I**

This item is published for information purposes and the Regulatory Flexibility Act does not apply.

DAC 86-15, Items II, VI, VII, VIII, and IX

The final rule does not constitute a significant DFARS revision within the meaning of Pub. L. 98-577 and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected DFARS Subpart will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 88-610D in correspondence.

DAC 86-15, Items III

An initial Regulatory Flexibility Analysis in connection with this rulemaking was previously furnished to the Chief Counsel for Advocacy of the U.S. Small Business Administration on February 17, 1988, in accordance with 5 U.S.C. 603. Additionally, a Final Regulatory Flexibility Analysis will be furnished the SBA with respect to the final rule. (Please refer to rule published

in the Federal Register on June 6, 1988 (53 FR 20626).]

DAC 86-15, Items IV, V, and XI

The revisions in these items are editorial in nature; the Regulatory Flexibility Act does not apply.

DAC 86-15, Item X

At the time the proposed rule was published in the Federal Register, an initial regulatory flexibility analysis was not performed because it was determined that the rule was not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. However, comments were invited from small businesses and other interested parties. None of the comments received questioned the underlying assumption concerning impact and effect. Moreover, none of the revisions incorporated in the final rule appear to alter the impact or effect of the rule on contractors or offerors. Accordingly, a final regulatory analysis has not been prepared.

C. Paperwork Reduction Act

DAC 86-15, Item I

This item is published for information purposes and the Paperwork Reduction Act does not apply.

DAC 86-15, Items II through XI

The revisions in these items do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 203, 204, 205, 206, 208, 213, 214, 217, 219, 226, 235, 242, 247, and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary Defense Acquisition Regulatory Council.

[Defense Acquisition Circular No. 86-15] July 1, 1988.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective July 1, 1988.

Defense Acquisition Circular (DAC) 86-15 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—Certification of Technical Data Conformity by Educational Institutions

Several educational institutions have requested clarification of who may be designated as a certifying official for

purposes of the "Certification of Technical Data Conformity" clause at 252.227-7036. They are concerned that the clause requires certification by a management official, rather than the principal investigator or researcher. Nothing in the FAR and DFARS prohibits educational institutions from designating the principal investigator or researcher as the certifying official for purposes of this certification. However, it must be kept in mind that when the Department of Defense contracts with educational institutions, it is the institution which is ultimately responsible for contract performance, not the individual investigator or researcher.

Item II—Display of DoD Hotline Poster

The clause at 252.203-7003 is revised to permit contractors to refrain from displaying the DoD Hotline Poster when contracts will be performed at work sites outside the United States, its territories and/or possessions.

Item III—Implementation of section 1207 of Pub. L. 99-661 and Section 806 of Pub. L. 100-180; Contracting With Small Disadvantaged Business Concerns (SDBs), Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs)

DFARS Parts 219, 226, 235, and 252 are revised to implement Section 1207 of Pub. L. 99-661 and Section 806 of Pub. L. 100-180. This incorporates the interim rule issued on February 19, 1988 (53 FR 5114) with certain revisions. One significant change is a revision to Subpart 219.70 on an interim basis. Pursuant to a determination by the Under Secretary of Defense (Acquisition), the 10% evaluation preference will not be applied to total small business set-asides. Section 219.7000 is amended accordingly and the clause at 252.219-7008 is deleted. Other major revisions are as follows:

(a) Reflect the country of origin of persons within designated disadvantaged groups, consistent with applicable U.S. Small Business Administration (SBA) Regulations (219.301-70(b)(2); 252.219-7005(b)).

(b) Establish a presumption of both social and economic disadvantage for persons within certain designated groups, consistent with Section 8(d) of the Small Business Act (219.302-70(b)(2)).

(c) Require the contracting officer to challenge the eligibility, for further determination by SBA, of a concern whose ownership is not within certain disadvantaged groups (designated by SBA pursuant to Section 8(d) of the Small Business Act) if the concern is

also neither (1) currently enrolled in the 8(a) program, nor (2) determined to be both socially and economically disadvantaged by SBA within the six-month period immediately preceding submission of the concern's offer (219.301-70(b) (3); 252.219-7005(b) and (c)).

(d) Modify procedures governing protests to the SBA of the disadvantaged status of offerors, to be consistent with procedures adopted by the SBA for this purpose (219.302(70)).

(e) Amend the definition of eligible MIs, to reflect the amendment made by Section 806(d) (2) of Pub. L. 100-180, and to ensure consistency with regulations promulgated by the U.S. Department of Education (226.7002; 252.226-7001).

(f) Require a self-certification of eligibility from HBCUs and MIs (226.7006; 226.7009; 235.026; 252.226-7001).

(g) Exempt subcontracting plans for commercial products submitted pursuant to FAR 52.219-9(g) from requirements to establish a composite goal of SDBs/HBCUs/MIs and from incentive provisions contained in the coverage (219.704; 219.705-4; 252.219-7000; 252.219-7009).

(h) Clarify the establishment of a composite goal for SDBs, HBCUs and MIs (219.704 (a)(70)).

(i) Apply the subcontracting limitations of Section 15(o)(1) of the Small Business Act to HBCUs and MIs, in accordance with Section 806(b)(12) of Pub. L. 100-180 (226.7004(a); 252.226-7000).

(j) Clarify that the composite goal for SDBs, HBCUs and MIs relates to subcontracting dollars (not total contract price) and amend the formula for calculation of incentive fee accordingly (219.705-4; 252.219-7009).

Related changes are made to Subparts 204.6, 205.2, and 206.2.

An interim rule was published in the Federal Register on February 19, 1988 (53 FR 5114); and a final rule and interim rule were published in the Federal Register on June 6, 1988 (53 FR 20626), and corrected in the Federal Register on June 15, 1988 (53 FR 22426) and on June 16, 1988 (53 FR 22609).

(Note: Refer to 53 FR 20626, June 6, 1988, for effective dates).

Item IV—Contractor and Government Entity (CAGE) Code

DFARS 204.670-2, 213.505-70(b) and 247.305-10(a) are revised to reflect correct designations for certain publications referenced in the coverage.

Item V—Preparation and Transmittal of Synopses of Proposed Contract Actions

DFARS 205.207 (b)(1) is deleted to conform to recently revised FAR coverage.

Item VI—Evaluation of Options

DFARS 214.201-6 is revised and 217.200 is added concerning statutory restrictions on inclusion of option evaluation provisions in IFBs, to supplement recent changes made to FAR 17.200.

Item VII—Multiyear Procurements

DFARS 217.103-70 is revised to update the coverage to reflect various restrictions, controls and reporting requirements regarding multiyear contracts imposed by 10 U.S.C. 2306(h) and annual appropriations acts for the Department of Defense.

Item VIII—Unfinitized Contractual Actions

DFARS 217.7403(b) (6) and (7) are revised to change the approval level from the head of the agency to the head of the agency or designee.

Item IX—Production Surveillance and Reporting

DFARS 242.1106(d) is revised to require the contracting officer, or designee, to acknowledge receipt of Production Progress Reports.

Item X—Voluntary Refunds

Subpart 242.71 is revised to clarify that voluntary refunds are not a contractual or legal obligation, that voluntary refunds may be initiated by the contractor or solicited by the Government, and that a voluntary refund may be used to offset against a related future debt owed the Government.

Item XI—Editorial Corrections

Editorial corrections are made as follows:

(a) DFARS 208.7100-2(d) is corrected to reflect the correct reference.

(b) DFARS 252.227-7013 is revised to reflect correct references in the introductory text.

(c) DFARS 252.227-7038 is corrected to add a line to paragraph (1)(i) of the certification in paragraph (a) of the clause which was omitted when the coverage was issued in DAC #86-13.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 203, 204, 205, 206, 208, 213, 214, 217, 219, 226, 235, 242, 247, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST.**203.7001 [Amended]**

2. Section 203.7001 is amended by adding between the word "more" and the word "and" the words "which will not be performed in a foreign country".

203.7002 [Amended]

3. Section 203.7002 is amended by changing the period to a comma at the end of the sentence and adding the words "except when performance will take place in a foreign country."

PART 204—ADMINISTRATIVE MATTERS**204.670-2 [Amended]**

4. Section 204.670-2 is amended by adding in paragraph (a) between the word "manufacturer" and the semicolon the words "and published in the Commercial and Government Entity (CAGE) Handbook H4/H8".

PART 205—PUBLICIZING CONTRACT ACTIONS**205.207 [Amended]**

5. Section 205.207 is amended by removing paragraph (b)(1).

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES**208.7100-2 [Amended]**

6. Section 208.7100-2 is amended by substituting in paragraph (d)(2) the reference "208.7101-1" in lieu of the reference "208.7001-1".

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES**213.505-70 [Amended]**

7. Section 213.505-70 is amended by substituting at the end of paragraph (b)(1) the reference "DoD 4000.25-8-M" in lieu of the reference "DoD 5105.38-D".

PART 214—SEALED BIDDING**214.201-6 [Amended]**

8. Section 214.201-6 is amended by adding introductory text immediately following the title of the section to read: "See 217.200 concerning statutory restrictions on the inclusion of option evaluation provisions in IFBs."

PART 217—SPECIAL CONTRACTING METHODS**217.103-70 [Amended]**

9. Section 217.103-70 is amended by revising the introductory text; by adding paragraphs (a) through (f); and by redesignating the existing paragraphs (a) and (b) as paragraphs (g) and (h), to read as follows:

217.103-70 Funding of Multiyear Contracts.

Section 2306(h) of Title 10 of the U.S. Code and annual appropriations acts for the Department of Defense have established the various restrictions, controls and reporting requirements regarding multiyear contracts in paragraphs (a) through (f) below; paragraphs (g) and (h) provide additional guidance.

(a) A 30-day advance notification to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives shall be provided by the Secretary prior to the award of any multiyear contract that:

(1) Contains a cancellation ceiling in excess of \$100 million; or

(2) Provides for economic order quantity purchases in excess of \$20 million in any year; or

(3) Includes an unfunded contingent liability in excess of \$20 million.

(b) A similar notification to that described in paragraph (a) shall also be given prior to the award of any contract for advance procurement leading to a multiyear contract with an economic order quantity procurement in excess of \$20 million in any year.

(c) Copies of the notifications required in paragraphs (a) and (b) shall be submitted to the Deputy Assistant Secretary of Defense (OASD(P&L) (Procurement)), and Deputy Assistant Secretary of Defense, OASD(C)(P/B). Departments shall establish reporting procedures.

(d) No multiyear contract may be awarded for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability.

(e) No multiyear contract in excess of \$500 million for any system or component thereof shall be initiated unless specifically provided for in an appropriation act for the DoD.

(f) Departments shall also comply with any restrictions or notification requirements contained in annual authorization or appropriation acts.

10. Section 217.200 is added to read as follows:

217.200 Scope of Subpart.

10 U.S.C. 2301(a)(7) provides that an IFB shall not include a provision for the evaluation of options, unless it has been determined that there is a reasonable likelihood that the options will be exercised. This requirement shall be observed whenever option evaluation provisions are included within IFBs, notwithstanding the exceptions contained in FAR 17.200. See FAR 17.208 (b) and (c)(4).

217.7503 [Amended]

11. Section 217.7503 is amended by adding in paragraphs (b)(6) between the word "agency" and the word "approves" the words "or designee"; and by adding in paragraph (b)(7) between the word "agency" and the word "approves" the words "or designee".

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS**219.302 [Amended]**

12. Section 219.302 is amended by substituting in the first sentence of paragraph (S-70)(2) between the word "question," and the word "protest" the words "an offeror's" in lieu of the word "such".

219.502-70 [Amended]

13. Section 219.502-70 is amended by substituting in the third sentence of paragraph (e)(4) the words "Block 18" in lieu of the words "Block 26".

219.506 [Amended]

14. Section 219.506 is amended by adding in paragraph (b) between the acronym "SADBUS" and the word "will" the words "on small business set-asides"; and by removing the last sentence of paragraph (b) and substituting thereof a sentence reading: Disagreements between the contracting officer and the SADBUS on SDB set-asides will be resolved in accordance with the procedures in 219.502-72(d).

PART 242—CONTRACT ADMINISTRATION**242.1106 [Amended]**

15. Section 242.1106 is amended by adding paragraph (d) to read: "(d) The contracting officer, or designee, shall acknowledge receipt of the report initiated by the contract administration office. This acknowledgement shall be timely and, if deemed appropriate by the contracting officer, in writing."

16. Section 242.7100 is revised to read as follows:

242.7100 General.

A voluntary refund is a payment or credit, not required by any contractual or other legal obligation, made to the Government by a contractor or subcontractor either as a payment or as an adjustment under one or more contracts or subcontracts. It may be unsolicited or it may be made in response to a request by the Government. In most cases, voluntary refunds are requested after it has been determined that no contractual remedy is readily available to obtain the amount sought from the contractor. Acceptance of a voluntary refund will not prejudice remedies otherwise available to the Government. The voluntary refund should generally be used as a setoff against a future debt owed to the Government by the contractor; provided, the contracting officer determines that the voluntary refund relates directly to that debt, and provided the setoff is not otherwise prohibited by law or regulation (see e.g., 10 U.S.C. 2306a). In deciding whether to solicit a voluntary refund or to accept an unsolicited refund, the contracting officer should ask legal counsel to review the contract or contracts and all data relevant thereto to ensure that there are no readily available contractual remedies and to advise whether the Government's right would be jeopardized or impaired by the contracting officer's proposed action.

17. Section 242.7101 is revised to read as follows:

242.7101 Solicited refunds.

Voluntary refunds may be requested during or after contract performance. They shall be requested only when it is considered that the Government was overcharged under a contract, or was inadequately compensated for the use of Government-owned property or in the disposition of contractor inventory, and retention by the contractor or subcontractor of the amount in question would be contrary to good conscience and equity. The decision to solicit a voluntary refund shall be made by Heads of Contracting Activities or at such other level by Departmental procedures.

PART 247—TRANSPORTATION

18. Section 247.305-10 is amended by revising paragraph (a)(1)(i) to read as follows:

247.305-10 Packing, marking and consignment.

- (a) * * *
- (1) * * *
- (i) Code of consignor and clear text identification of consignor and

destination as published in the following:

(A) Department of Defense Activity Address Directory (DoDAAD), DoD 4000.25-6-m,

(B) Military Assistance Program Address Directory (MAPAD), DoD 4000.25-8-M, or

(C) Commercial and Government Entity (CAGE) Handbook H4/H8;

* * *

[FR Doc. 88-22073 Filed 9-28-88; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Parts 202, 204, 208, 209, 214, 215, 216, 222, 225, 230, 239, 242, 244, 245, 249, 252, 253, 270, Appendix I, Appendix N, and Appendix T

[Defense Acquisition Circular (DAC) 86-16]

Department of Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule, and Interim rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-16 amends the DoD FAR Supplement (DFARS) with respect to very high speed integrated circuits (VHSIC) safeguards (deletion); Part 208 thresholds; antifriction bearings; pre-bid conference; cost or pricing data; basic ordering agreements; restriction on the acquisition of machine tools from foreign sources; preference for domestic wool; Part 253, Forms; DD Form 250 Special Distribution Address List; Contracting Activity Address Numbers; US/Egypt Memorandum of Understanding (MOU); and editorial corrections. This DAC includes an information item regarding publication of the 1988 edition of the DFARS.

EFFECTIVE DATE: August 1, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A)(M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:**A. Background**

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-5.

B. Public Comments*DAC 86-16, Item I*

This item is for informational purposes and does not contain revisions to the DFARS.

DAC 86-16, Item II

This item deletes coverage which expired January 31, 1988.

DAC 86-16, Items III, V, VI, and VII

Public comments were not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures; or compelling reasons required issuance of an interim rule without prior publication for public comment. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88-610D.

DAC 86-16, Items IV, VIII, and IX

Notices of proposed or interim rules were published in the Federal Register requesting Government agencies, private firms, associations, and the general public to submit comments to be considered in the formulation of the final rule.

DAC 86-16, Item X

This item includes addition of DD Forms, and comments are not deemed necessary.

DAC 86-16, Item XI

The revision to Appendix I included in this item changes addresses for the Army. Comments are not deemed necessary.

DAC 86-16, Item XII

This item includes changes to the listing of contracting activities in Appendix N. Comments are not deemed necessary.

DAC 86-16, Item XIII

This item contains a reprint of the Memorandum of Understanding (MOU) between the United States and Egypt. Comments are not deemed necessary.

DAC 86-16, Items XIV and XV

These items contain editorial changes and comments are not deemed necessary.

C. Regulatory Flexibility Act*DAC 86-16, Item II*

This item deletes coverage which has expired. Solicitation of public comments is not required. The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

DAC 86-16, Items III, V, VI, and VII

These revisions are not "significant revisions" as defined in FAR 1.501-1; i.e., they do not alter the substantive meaning of any coverage in the DFARS having a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations, solicitation of agency and public views on these revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

DAC 86-16, Item IV

The coverage at Subpart 208.79 is not expected to have a significant impact on small businesses. It will impact only those small businesses that (1) manufacture antifriction bearings, or (2) use antifriction bearings in a subassembly, or end items sold to the DoD either directly or through a subcontract with a DoD contractor. Although there is no existing data to quantify the number of small businesses which may be impacted, it is estimated that only a small quantity will be affected. Further, because the restriction will be applied across the board giving the same advantages and disadvantages to all, and because commercial items are exempted from the restriction, any impact is expected to be minimal. Therefore, an Initial Regulatory Flexibility Act Analysis has not been prepared. An interim rule was published on August 4, 1988 (53 FR 29332) and comments were invited.

DAC 86-16, Item VIII

The rule does not appear to have a significant economic impact on a substantial number of small entities. When the interim rule was published on April 16, 1987 (52 FR 12389), no comments were received concerning the Regulatory Flexibility Act Statement that there would not be a significant impact on a substantial number of small entities. This rule affects only those contractors who supply to the Government machine tools not manufactured in the United States or Canada. For these reasons, an initial regulatory flexibility analysis has not been prepared. Comments from small

entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88-610D.

The Department of Defense certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the revisions do not change the basic requirement for applying an evaluation factor. Comments were invited from small businesses and other interested parties on January 11, 1988 (53 FR 626). No comments were received that addressed the Regulatory Flexibility Act Statement.

DAC 86-16, Items I, and X Through XV

Comments were not solicited with respect to these items. The Regulatory Flexibility Act does not apply.

D. Paperwork Reduction Act*DAC 86-16, Items I Through III, and Items V Through XV*

The Paperwork Reduction Act does not apply because these rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

DAC 86-16, Item IV

It is expected that the coverage in Subpart 208.79 will impose additional burden on contractors. A paperwork burden clearance for OMB Control Number 0704-0205 was submitted to OMB for review and approval. This clearance reflects an increase of 439,383 hours.

List of Subjects in 48 CFR Parts 202, 204, 208, 209, 214, 215, 216, 222, 225, 230, 239, 242, 244, 245, 249, 252, 253, 270, Appendix I, Appendix N, and Appendix T

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[Defense Acquisition Circular No. 86-16]

August 1, 1988.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective August 1, 1988.

Defense Acquisition Circular (DAC) 86-16 amends the DoD Federal Acquisition Regulation Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures.

Item I—1988 Edition of the DoD FAR Supplement (DFARS)

The 1988 edition of the DFARS will be published in the near future. This edition will incorporate Defense Acquisition Circulars (DACs) 86-1 through 86-16 and will reflect coverage that is now in the field and being utilized; therefore, the 1988 edition will be effective upon receipt. This DAC #86-16 will be the last DAC issued to the former edition, 1986.

Note.—DFARS (former DAR) manuals and supplements referenced in the Table of Contents are not included in the subscription to the DFARS and must be purchased separately from the Government Printing Office. Requests for copies of the DFARS should be made through normal Departmental distribution sources or directly to the Government Printing Office, Washington, DC 20402.

Item II—Very High Speed Integrated Circuits (VHSIC) Safeguards—Deletion of

DAC #86-6, September 1, 1987, Item III, issued a new DFARS Subpart 204.72, a new clause at 252.204-7006, and related changes to other parts of the DFARS to provide policies and procedures regarding protection of technologies and products developed under the VHSIC Program, as required by DoD Instruction 5230.26, Very High Speed Integrated Circuits (VHSIC) Technology Security Program. This new coverage became effective February 4, 1987, and expired January 31, 1988. Accordingly, Subpart 204.72, the clause at 252.204-7006, and the related changes are deleted.

Item III—Part 208 Thresholds

The thresholds at DFARS 208.070(g)(1) and 208.405-2 (S-70)(1) are increased from \$10,000 to "the small purchase threshold in FAR Part 13." The dollar and percent limitations at 208.7007-4 are also deleted. The revisions are intended to reduce procurement administrative leadtime and workload.

Item IV—Antifriction Bearings

A new DFARS Subpart 208.79 has been added to restrict procurement of antifriction bearings and bearing components for use by the DoD to domestic sources. This restriction is deemed necessary to protect and strengthen the domestic industrial base for an industry critical to national security. A related clause is added at 252.208-7006. An interim rule with request for comments was published on August 4, 1988 (53 FR 29332).

Item V—Pre-Bid Conference

DFARS 214.207 is revised to remove the requirement for approval at a level higher than the contracting officer.

Item VI—Waiver of Submission of Certified Cost or Pricing Data

The "Note" under DFARS 215.804-3(e)(3) which requires copies of cost and pricing data waivers to be sent to the Deputy Assistant Secretary for Procurement is deleted.

Item VII—Basic Ordering Agreements

DFARS 216.703(c)(S-73) and (c)(S-74) are added to require that individual orders be closed in the same manner as individual contracts and that BOAs expire three years after award unless extension is approved by the Head of the Contracting Activity. Extensions may be granted for up to two years, but no single extension may exceed one year.

Item VIII—Restriction on the Acquisition of Machine Tools From Foreign Sources

Section 9118 of the Department of Defense Acquisition Improvement Act of 1987 (Pub. L. 99-500) prohibits the use of FY 87 funds for the acquisition of certain machine tools not manufactured in the United States or Canada for any Government-owned facility or property under the control of the Department of Defense. This DAC contains changes to DFARS 225.7001 and a clause at 252.225-7023 to comply with the restriction imposed by the above-cited law. Related changes are made to 225.109 and 225.407. An interim rule was published on April 16, 1987 (52 FR 12389), and amendments to the interim rule were published on December 31, 1987 (52 FR 49413).

Item IX—Preference for Domestic Wool

DFARS 225.7002(c) and 252.225-7010 are revised to provide a method for determining the current incentive reflective price for representative grades of domestic wools, and to update the terminology and categories to reflect current wool availability, marketing practices and industry techniques. The changes will ensure that the incentive price is kept current without any need for an annual review for possible change to the DFARS, and with current categories and terminology in use, comparison will be facilitated as obsolete distinctions and categories are eliminated. A proposed rule was published on January 11, 1988 (53 FR 626). Comments received were considered in formulation of the final rule.

Item X—Part 253—DD Forms

DAC #86-6, Item IV, provided coverage in DFARS 204.6 and 252.204-7007 with respect to Commercial and Government Entity (CAGE) Codes and the use of DD Form 2051. DD Forms 2051 and 2051-1 which were not available when DAC #86-6 was published are included in this DAC.

Note.—Department of Defense Forms are not published in the Federal Register or the Code of Federal Regulations. A list containing DD Form numbers and titles follows section 253.270.

Item XI—Appendix I—DD Form 250 Special Distribution Address List

Appendix I-401, Table 2, is revised to update the addressees for the Army.

Item XII—Appendix N—Activity Address Numbers

Appendix N is revised to reflect changes to certain contracting activities.

Item XIII—US/Egypt Memorandum of Understanding (MOU)

Appendix T is revised to include an updated MOU between the United States and the Government of Egypt.

Item XIV—Editorial Corrections

Editorial corrections are made as follows:

- (a) The table of contents is updated.
- (b) DFARS 202.101(a) is revised to substitute U.S. Army Contract Support Agency as a contracting activity for the Army in lieu of Directorate for Contracting, Office of the Assistant Secretary of the Army (Research, Development and Acquisition).
- (c) DFARS 208.7100-2 is revised to reflect the correct reference (208.7100-1).
- (d) DFARS 222.101-2(S-71) is deleted because the coverage is a duplication of FAR coverage.
- (e) Subpart 230.1 is deleted because it references Appendix O (Cost Accounting Standards) which was deleted from the DFARS when the Cost Accounting Standards were incorporated in the FAR.
- (f) Subpart 230.4 is revised to read "230.6" to conform to a recent change in the FAR.
- (g) DFARS 245.604(S-70), 245.607-72(e), 245.610-1(a)(1)(viii), and 245.610-1(a)(2) (i) and (v) are revised to substitute "Reutilization and Marketing" in lieu of "Property Disposal".
- (h) The table of contents for Part 252 is updated.
- (i) DFARS 252.217-7129 is deleted and marked "Reserved." because the referenced clause 252.232-7000 has been deleted.

(j) DFARS 252.236-7015 is deleted and marked "Reserved." because the coverage is a duplication of FAR coverage.

(k) Other editorial corrections, such as corrections to reflect current organizational designations for the Air Force and the Defense Logistics Agency, corrections to misspelled words, etc., are included.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 202, 204, 208, 209, 214, 215, 216, 222, 225, 230, 239, 242, 244, 245, 249, 252, 253, 270, Appendix I, Appendix N, and Appendix T continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 202—DEFINITIONS OF WORDS AND TERMS

202.101 [Amended]

2. Section 202.101 is amended by substituting in paragraph (a) at the beginning of the listing "FOR THE ARMY" the designation "U.S. Army Contract Support Agency" in lieu of "Directorate for Contracting, Office of the Assistant Secretary of the Army (Research, Development and Acquisition)".

PART 204—ADMINISTRATIVE MATTERS

204.202 [Amended]

3. Section 204.202 is amended by removing paragraph (c)(7).

204.471 [Removed]

4. Section 204.471 is removed.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

208.002-70 [Amended]

5. Section 208.002-70 is amended by substituting in paragraph (g)(1) between the word "over" and the word "of" the words "the small purchase threshold established in FAR Part 13" in lieu of the dollar figure "\$10,000".

208.405-2 [Amended]

6. Section 208.405-2 is amended by substituting in the first sentence of paragraph (S-70) (1) between the word "of" and the word "by" the words "the small purchase threshold established in FAR Part 13" in lieu of the dollar figure "\$10,000".

208.7007-4 [Amended]

7. Section 208.7007-4 is amended by removing the last sentence.

208.7100-2 [Amended]

8. Section 208.7100-2 is amended by substituting in paragraph (d)(2) the reference "208.7100-1" in lieu of the reference "208.7101-1".

PART 209—CONTRACTOR QUALIFICATIONS

209.202 [Amended]

9. Section 209.202 is amended by substituting in paragraph (a)(1) in the listing of authority under the heading "In the Air Force" the designation "(HQ SAF/AQXA)" in lieu of the designation "(HQ USAF/RDXM)".

209.405 [Amended]

10. Section 209.405 is amended by substituting in paragraph (iv) of paragraph (a)(2) between the word "which" and the word "continued" the word "require" in lieu of the word "required".

PART 214—SEALED BIDDING

214.207 [Amended]

11. Section 214.207 is amended by removing the first sentence.

PART 215—CONTRACTING BY NEGOTIATION

215.804-3 [Amended]

12. Section 215.804-3 is amended by removing between paragraph (e)(3) and paragraph (i) the Note.

PART 216—TYPES OF CONTRACTS

13. Section 216.703 is amended by adding paragraphs (c)(S-73) and (c)(S-74) to read as follows:

216.703 Basic ordering agreements.

(c) * * *

(c)(S-73) Individual orders under a basic ordering agreement shall be individually closed following physical completion of each order in accordance with FAR 4.804.

(c)(S-74) The period during which orders may be placed against a BOA may not exceed three years. Extensions may be granted with the approval of the Chief of the Contracting Office for up to two years, but no single extension shall exceed one year.

* * * * *

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

222.101-1 [Amended]

14. Section 222.101-1 is amended by substituting in paragraph (S-74) in the address "For the Air Force:" the address "Headquarters, AFCDM-PDC, Attention: Director, of AF Contractor

Industrial Relations, Kirtland Air Force Base, New Mexico 87117-5000" in lieu of the address "Headquarters, United States Air Force/RDC-LA, Attention: Special Assistant for Labor Affairs".

222.101-2 [Removed]

15. Section 222.101-2 is removed.

PART 225—FOREIGN ACQUISITION

225.109 [Amended]

16. Section 225.109 is amended by changing the period to a comma at the end of paragraph (a)(S-70) and adding the phrase "unless the solicitation is solely for machine tools (see 225.7008(e))."; and by changing the period to a comma at the end of the first sentence of paragraph (d)(S-70) and adding the phrase "unless the solicitation is solely for machine tools (see 225.7008(e)).".

225.407 [Amended]

17. Section 225.407 is amended by changing the period to a comma at the end of paragraph (a)(1) and adding the phrase "unless the solicitation is solely for machine tools (see 225.7008(e))."; and by changing the period to a comma at the end of the first sentence of paragraph (a)(2) and adding the phrase "unless the solicitation is solely for machine tools (see 225.7008(e)).".

18. Section 225.7001 is amended by adding between the definition "Hand or Measuring Tools" and the definition "Possessions" the definition "Machine Tools" to read as follows:

225.7001 Definitions.

* * * * *

"Machine Tools", as used in this subpart, means those tools listed in Federal Supply Classes of metalworking machinery in the following categories:

Federal Supply Classification (FSC) and Name

FSC 3408—Machining Centers and Way Type Machines
 FSC 3410—Electrical and Ultrasonic Erosion Machines
 FSC 3411—Boring Machines
 FSC 3412—Broaching Machines
 FSC 3413—Drilling and Tapping Machines
 FSC 3414—Gear and Cutting and Finishing Machines
 FSC 3415—Grinding Machines
 FSC 3416—Lathes
 FSC 3417—Milling Machines
 FSC 3418—Planers and Shapers
 FSC 3419—Miscellaneous Machine Tools
 FSC 3426—Metal Finishing Equipment
 FSC 3433—Gas Welding, Heat Cutting, and Metalizing Equipment

FSC 3441—Bending and Forming Machines
 FSC 3442—Hydraulic and Pneumatic Presses, power driven
 FSC 3443—Mechanical Presses, power driven
 FSC 3446—Forging Machinery, and Hammers
 FSC 3448—Riveting Machines
 FSC 3449—Miscellaneous Secondary Metal Forming and Cutting Machines
 FSC 3460—Machine Tool Accessories
 FSC 3461—Accessories for Secondary Metalworking Machinery

19. Section 225.7002 is amended by revising paragraph (c)(6) to read as follows:

225.7002 Restriction on food, clothing, fabrics, and specialty metals.

(c) *Preference for domestic wool.*

(6) The evaluation factor to be used under paragraph (c)(5) of this section will be 10% of the average of the following prices of representative grades of domestic wools within that one of the following categories which includes the wool required by the specifications. (The following prices reflect the current incentive price* per pound grease basis converted to clean basis for each grade. Include all grades of Original Bag Texas and Territory wool, and Graded Territory wool and Graded Fleece wool falling within the applicable category as reported in the Department of Agriculture "Market News".)

REPRESENTATIVE GRADE

	Price, clean basis, per pound, dollars
Category 1.—Grades 60's and finer	
The average of the following grades:	
64's	**
62's	**
60's	**
Category 2.—Grades 58's and below	
The average of the following grades:	
58's	**
56's	**
54's	**

* Use the current incentive (support) price as established by the Secretary of Agriculture.

** The price clean basis for each grade is derived by dividing the current incentive price by the first of the two grease percentages for the applicable grades (for which prices are reported) listed in the four issues of the Department of Agriculture "Market News" immediately preceding the date of bid opening or the closing date of requests for proposals. For solicitation purposes, the evaluation factor shall be computed on the basis of the four issues of the "Market News" immediately preceding the issuance

of bids or proposals, and adjusted at the time of the opening/closing date of the solicitation if the incentive reflective prices change during the interim.

20. Section 225.7008 is revised to read as follows:

225.7008 Restriction on acquisition of machine tools.

(a) Section 9118 of Pub. L. 99-591 and section 8085 of Pub. L. 100-202 provide that no FY 87 or FY 88 funds appropriated for the Department of Defense may be used to provide or acquire the classes of machine tools set forth in 225.7001 for use in any Government-owned facility or property under control of the Department of Defense if these machine tools were not manufactured in the United States or Canada. Under contracts obligating appropriations of these Acts, contractors may not procure the classes of machine tools set forth in 225.7001 if title to these machine tools will vest in the Government.

(b) When adequate domestic supplies of the classifications of machine tools set forth in 225.7001 are not available to meet the Department of Defense requirements on a timely basis, the procurement restriction may be waived by the Head of the Agency responsible for the procurement on a case-by-case basis. This authority may not be redelegated. Requests for waivers will contain a full explanation of the facts supporting the waiver and will be submitted in accordance with Departmental procedures.

(c) A machine tool shall be considered to be of United States or Canadian origin, if it is manufactured in the United States or Canada and the cost of its components manufactured in the United States or Canada exceeds 50 percent of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and duty (whether or not a duty-free entry certificate may be issued).

(d) The clause at 252.225-7023, "Restriction on Acquisition of Foreign Machine Tools", shall be inserted in all solicitations and contracts that:

(1) Obligate FY 87 or FY 88 funds for machine tools; or

(2) Contain FAR clause at 52.245-2, Government Property (Fixed-Price Contracts), or FAR clause 52.245-5, Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).

(e) When machine tools are the only items being procured, do not include any of the clauses at 252.225-7000, 252.225-7001, 252.225-7005, or 252.225-7006. If machine tools are not the only items being procured, include the clauses at

252.225-7000, 252.225-7001, 252.225-7005, and 252.225-7006, as appropriate.

225.7305 [Amended]

21. Section 225.7305 is amended by substituting in paragraph (f) between the word "United" and the word "Emirates" and word "Arab" in lieu of the word "Arabe".

225.7310 [Amended]

22. Section 225.7310 is amended by substituting in the second sentence of paragraph (b)(4) the designation "Production and Logistics (OASD(A&L))" in lieu of the designation "(Acquisition and Logistics (OASD(A&L)))"; and by substituting at the end of the last sentence of paragraph (b)(4) the designation "OASD(P&L) (P) (IA)" in lieu of the designation "OASD(A&L)(P)(IA)".

PART 230—COST ACCOUNTING STANDARDS

Subpart 230.4 [Redesignated as Subpart 230.6]

23. Subpart 230.4 is redesignated as Subpart 230.6.

230.401 [Redesignated as 230.601]

24. Section 230.401 is redesignated as section 230.601.

PART 239—ACQUISITION OF INFORMATION RESOURCES

25. Part 239 is amended by changing the title to read "Acquisition of Information Resources" in lieu of the title "Management, Acquisition, and Use of Information Resources".

PART 242—CONTRACT ADMINISTRATION

242.1403-2 [Amended]

26. Section 242.1403-2 is amended by substituting in paragraph (a) (S-70) between the word "commercial" and the word "of" the word "bills" in lieu of the word "bill".

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

244.304 [Amended]

27. Section 244.304 is amended by adding in paragraph (b)(1)(v) between the word "Act," and the word "compliance" the words "as amended,".

PART 245—GOVERNMENT PROPERTY

245.604 [Amended]

28. Section 254.604 is amended by substituting in paragraph (S-70) (1) between the word "Defense" and the word "Program" the words

"Reutilization and Marketing" in lieu of the words "Property Disposal"; and by substituting in paragraph (S-70) (2) between the word "Defense" and the word "Program" the words "Reutilization and Marketing" in lieu of the words "Property Disposal".

245.607-72 [Amended]

29. Section 245.607-72 is amended by substituting in the address in paragraph (e) the designation "Defense Reutilization and Marketing Service (DRMS-R)" in lieu of the designation "Defense Property Disposal Service, DPDS-R"; and by substituting in the address in paragraph (e) the zip code "49017-3091" in lieu of "49016".

245.610-1 [Amended]

30. Section 245.610-1 is amended by substituting in the address in the second sentence of paragraph (a)(1)(viii) the designation "Defense Reutilization and Marketing Service (DRMS-R)" in lieu of the designation "Defense Property Disposal Service, DPDS-R"; by substituting in the last sentence of paragraph (a)(1)(viii) between the word "by" and the word "is" the acronym "DRMS" in lieu of the acronym "DPDS"; by substituting in the last sentence of paragraph (a)(2)(i) between the word "Defense" and the word "Office" the words "Reutilization and Marketing" in lieu of the words "Property Disposal"; and by substituting in the second sentence of paragraph (a)(2)(v) between the word "from" and the word "upon" the acronym "DRMS" in lieu of the acronym "DPDS".

PART 249—TERMINATION OF CONTRACTS

249.110 [Amended]

31. Section 249.110 is amended by substituting in item 2.a. (13) of Part III of the format in paragraph (a)(2) the words "SF 1414" in lieu of the words "DD 1636"; by substituting in Part IV of the format in paragraph (a)(2) in the table following the words "ATTACHMENT A" the words in the title of the table "SF 1437" in lieu of the words "DD Form 547 1".

249.7002 [Amended]

32. Section 249.7002 is amended by substituting in paragraph (d) between the listing for the Air Force and the listing for the Defense Communications Agency the listing for the Defense Logistics Agency to read "Defense Logistics Agency—DLA-PR" in lieu of "Defense Logistics Agency—DLA-PC".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.204-7006 [Removed and Reserved]

33. Section 252.204-7006 is removed and reserved.

252.217-7129 [Removed and Reserved]

34. Section 252.217-7129 is removed and reserved.

252.217-7264 [Amended]

35. Section 252.217-7264 is amended by substituting at the end of the title the words "(DoD contracts)" in lieu of the words "(master plans)"; and by changing the date at the end of the text to read "(JUN 88)" in lieu of "(APR 84)".

252.225-7010 [Amended]

36. Section 252.225-7010 is amended by substituting in the introductory text the word "provision" in lieu of the word "clause"; by changing the date of the clause to read "(JUN 1988)" in lieu of "(MAR 1958)"; by substituting in paragraph (b) between the word "or" and the word "proposals" the words "the closing date of requests for" in lieu of the words "evaluation of" in both places; by removing in paragraph (b) between the word "grade" and the word "in" the words "and type"; by removing in paragraph (b) between the word "grades" and the parenthesis the words "and types"; by substituting in paragraph (c) between the word "or" and the word "proposals" the words "the closing date of requests for" in lieu of the words "evaluation of" in both places; by removing in paragraph (c) between the word "grade" and the word "in" the words "and type"; by removing in paragraph (c) between the word "grades" and the parenthesis the words "and types"; by removing in paragraph (d) between the word "representatives" and the word "grades" the words "types and"; by substituting in the last sentence of paragraph (e) between the word "and" and the word "manufacture" the word "ensuing" in lieu of the word "ensuring"; by adding paragraph (g); and by substituting at the end of the provision the word "provision" in lieu of the word "clause" as follows:

252.225-7010 Domestic wool preference.

(g) The evaluation factor is subject to adjustment at the opening/closing date for receipt of bids/proposals in accordance with DoD Federal Acquisition Regulation Supplement 225.7002(c)(6).
(End of provision)

37. Section 252.225-7023 is revised to read as follows:

252.225-7023 Restriction on acquisition of foreign machine tools.

As prescribed in 225.7008(d), insert the following clause.

RESTRICTION ON ACQUISITION OF FOREIGN MACHINE TOOLS (APR 1988)

(a) The Contractor agrees that those machine tools within the Federal Supply Classifications (FSCs) listed in paragraph (c) below, to be delivered as end items under this contract, or to be acquired by the Contractor on behalf of the Government, and to which title will vest in the Government, shall be of United States or Canadian origin.

(b) For the purpose of this clause a machine tool shall be considered to be of United States or Canadian origin if (1) it is manufactured in the United States or Canada; and (2) the cost of its components manufactured in the United States or Canada exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end item and duty (whether or not a duty-free certificate may be issued).

(c)

Federal Supply Classification (FSC) and Name

FSC 3408 Machining Centers and Way Type Machines
FSC 3410 Electrical and Ultrasonic Erosion Machines
FSC 3411 Boring Machines
FSC 3412 Broaching Machines
FSC 3413 Drilling and Tapping Machines
FSC 3414 Gear Cutting and Finishing Machines
FSC 3415 Grinding Machines
FSC 3416 Lathes
FSC 3417 Milling Machines
FSC 3418 Planers and Shapers
FSC 3419 Miscellaneous Machine Tools
FSC 3426 Metal Finishing Equipment
FSC 3433 Gas Welding, Heat Cutting, and Metalizing Equipment
FSC 3441 Bending and Forming Machines
FSC 3442 Hydraulic and Pneumatic Presses, power driven
FSC 3443 Mechanical Presses, power driven
FSC 3446 Forging Machinery, and Hammers
FSC 3448 Riveting Machines
FSC 3449 Miscellaneous Secondary Metal Forming and Cutting Machines
FSC 3460 Machine Tool Accessories
FSC 3461 Accessories for Secondary Metalworking Machinery
(End of clause)

252.236-7015 [Removed and Reserved]

38. Section 252.236-7015 is removed and reserved.

252.246-7001 [Amended]

39. Section 252.246-7001 is amended by substituting in the introductory text the reference "246.710" in lieu of the reference "246.770-10"; by substituting in the first sentence of Alternate I and Alternate II, following the text of the clause, the reference "246.710" in lieu of the reference "246.770" in both places.

PART 253—FORMS**253.270 [Amended]**

40. The list of forms following section 253.270 is amended by adding between the listing "253.303-70-DD-2051 DD Form 2051: Request for Assignment of a Commercial and Government Entity (CAGE) Code" and the listing "253.303-70-DD-2139 DD Form 2139: Subcontract Report of Foreign Purchases" the following listings:

253.303-70-DD-2051 DD Form 2051
Reverse: Instructions for Completing DD Form 2051

253.303-70-DD-2051 DD Form 2051-1:
Request for Information/Verification of
Commercial and Government Entity
(CAGE) Code

253.303-70-DD-2051-1 DD Form 2051-
1 Reverse: Address Label.

**PART 270—ACQUISITION OF
COMPUTER RESOURCES****270.324 [Amended]**

41. Section 270.324 is amended by substituting in the address for HQ USAF the designation in parentheses "(SAF/AQC)" in lieu of the designation "(AF/RDC)".

Appendix I to Chapter 2—[Amended]

42. Appendix I, Part 4, is amended by revising in Table 2, "Special Distribution", the listing for the Army to read as follows:

As required	Address	No. of copies
Army.....	Commander.....	1
Foreign Military Sales/Military Assistance Program (Grant Aid).....	U.S. Army Security Affairs Cmd, ATTN: "(See Below)", 3rd Street and "M" Avenue, Bldg 54-1, New Cumberland Army Depot, New Cumberland, PA 17070-5096.	
*Director, AMSAC-OE for these country codes.....	AG, AU, A2, AID, BC, BE, BY, CD, CI, CM, CN, CV, CK, DA, DE, DJ, EG, EI, FI, FR, GA, GB, GH, GR, GV, GY, IS, IT IV, KE, LI, LX, MI, MO, MR, NE, NI, NK, NO, NATO, PT, PU, RM, RW, SK, SL, SO, SP, SU, SW, SZ, SECPO, TK, TO, TU, UG, UK, UV.	
*Director, AMSAC-OX for these country codes.....	AC, AF, AT, AL, BA, BB, BD, BF, BG, BH, BL, BM, BR, BX, CB, CE, CH, CO, CS, DO, DR, EC, ES, FJ, GJ, GT, GU, HA, HO, ID, IN, IR, JA, JM, JO, KS, KU, LE, MF, MU, MK, NP, NU, NS, NZ, PA, PE, PI, PK, PN, PP, QA, SC, SI, SN, SR, ST, TC, TD, TH, TW, UY, VC, VE, YE.	

APPENDIX N—Chapter 2—[Amended]

43. Appendix N is amended as follows:

44. Under the *Department of the Army*, the address for the USA Engineer District, Alaska at the listing "DACA85, DACW85, ZJ" is changed to read: "PO Box 898, Anchorage, AK 99506-0889" in lieu of "PO Box 7002, Anchorage, AK 99510".

45. Under the *Department of the Navy*, the name of the activity at "N00039, NS", is changed to read "Space and Naval Warfare Systems Command" in lieu of "Naval Electronic Systems Command".

46. Under the *Department of the Air Force*, "XO" is added after "F19617" and before the hyphen.

47. The name of the activity for the listing at "F33661", is changed to read "Air Force Contract Maintenance Center, (AFCMC)" in lieu of "AFCMC".

48. The following activity is added between the listing "F33661" and the parenthetical statement "(with the following codes for each Detachment)": "F33661, S1, AFCMC/CM, Wright-Patterson AFB, OH 45433-5000".

49. The name of the activity for the listing "F33661, S8", is changed to read: "AFLC Logistics Support Group—Saudi

Arabia, AFCMC Contract Management Division" in lieu of "AFLC LSG/PM".

50. The following activities are added between the listing "F33661 SU" and the listing "F33733, J8":

F33661, YE, Det 32 AFCMC, APO New York 09672-0008

F33661, TQ, Det 34 AFCMC, APO New York 09254-5365

F33661, VF, Det 36 AFCMC, APO New York 09240-5000

51. The following activity is added between the listing "F41621, SJ" and the listing "F41650": "F41636, ZV, 3700 Contracting Squadron, Lackland AFB, TX 78236-5000".

52. The designation "YA" is added after "F41650" and before the hyphen.

53. The following activity is added between the listing "F41689, SK", and the listing "F41695, SL, TH": "F41691, YO, 12 FTW/LGC, Randolph AFB, TX 78150-5000".

Appendix T to Chapter 2—[Amended]

54. Appendix T is amended by revising T-302, Egypt Memorandum of Understanding, as follows:

T-302 Egypt Memorandum of Understanding

Memorandum of Understanding Between the Government of Egypt and the Government of

the United States of America Concerning the Principles Governing Scientist and Engineer Exchange and Mutual Cooperation in Research and Development, Procurement and Logistic Support of Defense Equipment

Preamble

The Government of the United States of America and the Government of Egypt, hereinafter referred to as the Governments:

- Noting their previous agreements on (1) the Production in Egypt of US Designed Defense Equipment (signed on 21 October 1979), (2) Scientist and Engineer Exchange Agreement (signed on 11 April 1980), (3) General Security of Information (signed on 10 February 1982) and (4) Exchange of Weapons Development Data (signed on 9 February 1984).

- Intending to increase their respective defense capabilities through more efficient cooperation in the field of research and development, production, procurement and logistic support in order to:

- Promote the cost-effective and rational use of funds allocated to defense to the extent permitted by their national laws and policies, and

- Mutually benefit from selected research and development programs which satisfy each nation's defense needs in a cost effective manner, and

- Noting that Egypt will continue to purchase large quantities of defense equipment from the United States and

desiring to ameliorate the ensuing imbalance in defense trade between the two countries by allowing Egyptian sources to compete for procurements of the US Department of Defense (DoD), have entered into this Memorandum of Understanding (MOU) in order to achieve the above aims.

This Memorandum of Understanding (MOU) sets out the guiding principles governing mutual cooperation in research and development, procurement and logistic support of conventional defense supplies and services.

Article I—Principles Governing Reciprocal Defense Cooperation

1. The Governments intend to facilitate the accomplishment of the above-stated aims through operational and technical exchange leading toward understanding of military requirements and their technological solutions, through cooperation in the research and development areas, and data exchange and scientist-engineer exchange programs, as covered in Annexes hereto; and by allowing each other's national sources to offer conventional defense supplies and services in accordance with this MOU.

2. Consistent with national laws and regulations each Government will accord the following treatment to offers of conventional defense supplies and services from sources of the other country:

a. Offers will be evaluated without applying price differentials resulting from Buy National laws and regulations, including the Balance of Payment program.

b. Offers will be evaluated without consideration of the cost of duties, and provisions will be made for duty-free entry certificates and related documentation.

c. Except as provided below, full consideration will be given to qualified industrial or governmental sources of the other country for conventional defense supplies and services consistent with the policies and criteria of the cognizant purchasing agencies, if such offers satisfy all requirements of the purchasing organization for performance, including requirements related to quality, delivery and cost. The US will not consider procurement from Egyptian sources if the procurements are: (1) Restricted by US disclosure policies or US industrial security requirements, (2) set aside for small business, (3) reserved for mobilization base suppliers, (4) otherwise restricted by law or regulation. In addition, the US may restrict the geographic region in which contracts for the maintenance, repair or overhaul of equipment, that are part of the DoD overseas workload program may be performed if appropriately designated officials of the Department of Defense determine that performance of the contract outside that specific region:

(a) Could adversely affect the military preparedness of the Armed Forces of the US; or

(b) Would violate the terms of an international agreement to which the US is a party.

d. Each Government's laws and regulations relating to purchases of property and services (including the requirements for obtaining competition for such purchases) shall be applicable to purchases by each Government,

respectively, in the implementation of this agreement.

e. Whenever permitted by law, waivers of further restrictive requirements are encouraged to facilitate the participation of sources in one country in the procurements of the other country.

3. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense procurement organizations to facilitate achievement of improved defense cooperation. Each Government will also be responsible for calling to the attention of the relevant industries within its country the existence of this Memorandum of Understanding together with appropriate implementing guidance.

4. Technical information, including Technical Data Packages (TDPs), furnished to the Government, to firms, or to persons in the other country for the purpose of offering or bidding on, or performing a defense contract shall not be used for any other purpose without the prior agreement of the originating Government as well as the prior agreement of those owning or controlling proprietary rights in such technical information. Each Government will ensure that full protection will be given by its officers, agents, and firms to such proprietary information, or to any privileged, protected or classified data and information it contains. Each Government will also undertake its best efforts to ensure compliance with the foregoing provisions on the part of other firms, or persons, in its country. In no event shall such technical information or TDPs or products derived therefrom be transferred to any third country or other third party transferee without the prior written consent of the originating Government.

5. Both Governments will undertake their best efforts to assist in negotiating licenses, royalties, and technical information exchanges with their respective industries, when required. Both Governments will also facilitate the necessary export licenses required for the submission of bids or proposals or otherwise required for the performance of this MOU and its Annexes.

6. The transfer to third countries of material or technical information and of articles derived therefrom generated from the mutual cooperative programs included in this MOU is subject to case-by-case advance agreement of the originating Government.

7. Arrangements and procedures will be established concerning follow-on logistic support for items of defense equipment covered by this Memorandum of Understanding. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II—Implementing Procedures

Implementing guidance is included in Annex I. A joint US DoD-Egypt MOD Steering Committee for Armaments Cooperation shall be established to update the annexes as appropriate and periodically review the progress of implementation. The Under Secretary of Defense for Acquisition, in coordination with the Assistant Secretary of Defense for International Security Affairs, and other appropriate Department of Defense

and State officials, will be responsible in the US Government for the implementation of this MOU. The Director General, Egyptian Ministry of Defense, will be the responsible counterpart authority for the Government of Egypt. Other duties to be assigned this committee and the frequency of their meetings shall be further defined in Annex I.

Article III—Security

To the extent that any items, plans, specifications or information furnished in connection with specific implementation of this MOU are classified by either Government for security purposes, the General Security of Information Agreement, dated 10 February 1982, between the Governments shall apply.

Article IV—Duration

1. This MOU will remain in effect for a ten-year period following its signing and will be extended for successive five-year periods, if at the end of each five-year interval the Governments mutually agree to such an extension.

2. If, however, either government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the Parties, any contract entered into pursuant to the terms of this MOU shall continue in effect, unless the contract is terminated in accordance with its own terms. Moreover, Article I, Sections 4 and 6 and Article III of this MOU will continue in full force and effect after, and notwithstanding, the expiration or termination of this MOU.

3. In any event, this MOU may be amended at any time upon the agreement of the parties.

Article V—Annexes

The following annex is an integral part of this MOU:

I. Principles Governing Implementation
Further annexes to this MOU (such as Research & Development Annex) may be negotiated by the responsible officers and approved by the appropriate authorities of each Government and will be treated as an integral part thereof.

For the Government of Egypt

The Minister of Defense
Abu Ghazala

Date, March 23, 1988.

For the United States

The Secretary of Defense

Frank C. Carlucci

March 23, 1988.

Annex I—Principles Governing Implementation to Memorandum of Understanding Between the Government of Egypt and the Government of the United States of America Concerning the Principles Governing Scientist and Engineer Exchange Mutual Cooperation in Research and Development, Procurement and Logistic Support of Selected Defense Equipment

I. Terms of Reference

1. A joint US Department of Defense-Egypt Ministry of Defense Steering Committee for Armaments Cooperation (hereafter to be called "the Committee") is hereby established to serve, under the direct responsibility of the authorities listed in Article II of the Memorandum of Understanding (MOU), as the main body responsible for implementation of the MOU.

2. In particular, the Committee will be responsible for implementing the MOU and its Annexes, which govern mutually beneficial cooperation in conventional defense equipment research and development, procurement and logistic support of conventional defense equipment; to this end the Committee will meet as required pursuant to the request of either Government, but not less than once every year, alternating in each country, to review progress in implementing the MOU. To the extent practical, the agenda for the Committee Meeting and issues to be discussed will be mutually agreed to at least 30 days in advance of the meeting. In this review:

A. They will discuss mutually beneficial cooperation in areas covered by the MOU.

B. They will exchange information as to the way the stipulations of the MOU have been carried out, and, if need be, prepare proposals for amendments of the MOU and/or its Annexes.

C. They will provide an annual financial statement of the current status of procurement under the MOU, give guidance for its yearly preparation, and report on the progress of MOU implementation.

D. They will consider problems which impeded the implementation of this MOU in accordance with the procedures in paragraphs 3 and 4 below.

E. They will meet from time to time with representatives of the industries of each country to foster the objectives of the MOU.

3. The Committee will act as a forum for the consideration of all problems arising in the operation of the MOU, including issues relating to amending and interpreting its Annexes, and make recommendations to the parties for the resolution of such problems. In this context the Committee will:

—Establish procedures for raising and resolving problems involving the implementation of the MOU that are brought to its attention.

—If the Committee is unable to reach a consensus, refer the matter to the Under Secretary of Defense for Acquisition, in the event the United States is the procuring party, or to the Director General, Ministry of Defense, in the event Egypt is the procuring party, in which case the decision of the Under Secretary or the Director General shall be final.

4. The Committee shall not constitute the exclusive forum for the resolution of problems arising in the operation of the MOU; any aggrieved person may pursue whatever legal or administrative remedies are available in either country.

II. Principles Governing Implementation

1. Major Principles

A. The US Department of Defense (DoD) and the Ministry of Defense of Egypt (MOD) will consider for their defense requirements qualified conventional defense supplies and services developed or produced in the other country.

B. In reviewing an item for possible eligibility for full and open competition, the DoD/MOD will consider for their respective procurements the following:

1. *Releasability of Technology.* The technology may be released by making available to Egyptian or US industry a government owned Technical Data Package which is provided with an IFB or RFP. The release of technology may also take place through an export license application processed by a US or Egyptian prime contractor for technology to be used by an Egyptian or US contractor. Technology transfer approval will be in accordance with established procedures and guidelines of each nation.

2. *Set-Asides.* Items that are set aside for Small or Disadvantaged Business or Labor Surplus Areas participation shall be excluded.

3. *Mobilization Base.* The minimum production rate that will ensure that facilities, producers, manufacturers or other suppliers are available for furnishing supplies or services in case of national emergency or to achieve mobilization shall be excluded.

4. *Items Restricted by Law or Regulation.*

5. *Military Readiness.* In order to establish or maintain a repair, maintenance or support capability necessary to ensure military readiness in designated geographical areas, the Governments may restrict certain procurements.

C. In all instances, when a government intends to procure an item for which non-domestic sources may not compete, the procuring Government shall state in its solicitation that the procurement is limited to domestic sources only.

D. It is the responsibility of government owned entities or industry representatives in each country to acquire information concerning the other country's proposed research, development, and purchases for items or services for which its firms are eligible to compete in accordance with procurement procedures and applicable law. However, the responsible government agencies in each country will assist sources in the other country, to the degree possible, to obtain information concerning intended research and development, proposed purchases, and necessary qualifications and appropriate documentation, as provided by law and regulations.

2. Action

DoD and MOD will review and, where considered necessary and to the extent provided by law, revise their respective policies, procedures, and regulations and develop implementation procedures to ensure

that the principles and objectives of the MOU, which are intended to promote the cost effective and rational use of funds allocated to defense, are taken into account. DoD and MOD agree that the following measures shall be taken, recognizing that, among other factors, delivery date requirements for supplies, the interest of security and the timely conduct of the procurement process are considerations that may preclude free and full competition for the award of contracts:

A. Ensure that their respective requirements offices are familiar with the principles and objectives of this MOU.

B. Ensure that their respective research and development offices and institutes are familiar with the principles and objectives of this MOU.

C. Ensure that their respective procurement offices are familiar with the principles and objectives of this MOU.

D. Ensure wide dissemination of the basic understanding of this MOU to their respective industries producing or developing approved defense items or services.

E. Ensure that, consistent with national laws, regulations, and this MOU, offers of conventional defense supplies produced and services performed in the other country will be evaluated without applying to such offers either price differentials under buy-national laws and regulations or the cost of import duties, to the extent that existing laws and regulations permit the waiver of such import duties. Full consideration will be given to qualified industrial or governmental sources in each other's country. Provisions will be made for duty-free entry certificates and related documentation to the extent that existing laws and regulations permit.

F. Assist industries in their respective countries to identify and advise the other Government of their production capabilities and assist such industries in carrying out the supporting actions for industrial participation.

G. Identify requirements and proposed purchases to the other country in a timely fashion to ensure that the industries of such country are afforded adequate time to have an opportunity to participate in the research, development, production and procurement processes.

H. Publish in a publicly available publication a summary of the notice of proposed purchase containing at least the following:

1. Subject matter of the contract;
2. Time-limits set for the submission of offers or an application for solicitation; and
3. Addresses from which solicitation documents and related data may be requested.

I. Provide on request copies of solicitations for proposed purchases. A solicitation shall constitute an invitation to participate in the competition, and shall contain the following information:

1. The nature and quantity of the products to be supplied;
2. Whether the procedure is by sealed bids or negotiation;
3. Any delivery date;

4. The address and final date for submitting offers as well as the language or languages in which they must be submitted;

5. The address of the agency awarding the contract and providing any information required from suppliers;

6. Any economic and technical requirements, financial guarantees and information required from suppliers;

7. The amount and terms of payment of any sum payable for solicitation documentation.

J. Publish conditions for participation in procurements in adequate time to enable interested suppliers to initiate and, to the extent that it is compatible with efficient operation of the procurement process, complete the bidding process.

K. Provide, upon request by any supplier, pertinent information concerning the reason why that supplier's application to qualify for the suppliers' list was rejected, or why that

supplier was not invited or admitted to tender.

L. Establish a contact point to provide additional information to any unsuccessful offeror dissatisfied with the explanation for rejection of his offer or who may have further questions about the award of the contract.

M. Provide, upon request by an unsuccessful tenderer, pertinent information concerning the reasons why the offeror was not selected including information on the characteristics and the relative advantages of the offer tender selected, as well as the name of the winning offeror.

N. Use best efforts to assist in negotiating licenses, royalties, and technical information exchanges among their respective industries, and research and development institutes when appropriate.

III. Membership and Points of Contact

A. Membership

The Governments will appoint the members of this committee and points of contact under separate cover and will update these appointments as necessary.

For the Government of Egypt

A. El Tawil,

Major General.

Date: March 23, 1988.

Abadel-Moneim El-Tawil,

Deputy Chief Armament Authority.

For the Government of the United States of America

Robert B. Costello,

Under Secretary of Defense (Acquisition).

March 23, 1988

[FR Doc. 88-22074 Filed 9-28-88; 8:45 am]

BILLING CODE 3810-01-M

Best Start Federal Register

Thursday
September 29, 1988

Part IV

Department of Education

Office of Special Education and
Rehabilitative Services

Proposed Funding Priorities—Fiscal Years
1989 and 1990; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Proposed Funding Priorities—Fiscal Years 1989 and 1990

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities.

SUMMARY: The Secretary proposes funding priorities for fiscal years 1989 and 1990 for the following:

- Research in the Education of the Handicapped Program, 84.023
- Handicapped Children's Early Education Program, 84.024
- Educational Media Research, Production, Distribution, and Training Program, 84.026
- Postsecondary Education Programs for Handicapped Persons, 84.078
- Programs for Severely Handicapped Children, 84.086
- Secondary Education and Transitional Services for Handicapped Youth Program, 84.158
- Handicapped Special Studies Program, 84.159
- Technology, Educational Media and Materials for the Handicapped Program, 84.180

These eight programs are administered by the Office of Special Education Programs. To ensure wide and effective use of program funds, the Secretary proposes to select from among these program priorities in order to fund the areas of greatest need for fiscal years 1989 and 1990. A separate competition will be established for each priority that is selected.

DATES: Comments must be received on or before October 31, 1988 for the following: Handicapped Children's Early Education Program; Educational Media Research, Production, Distribution and Training Program; Postsecondary Education Programs for Handicapped Persons; Programs for Severely Handicapped Children; Secondary Education and Transitional Services for Handicapped Youth Program; and Technology, Educational Media, and Materials for the Handicapped Program; November 28, 1988 for Research in Education of the Handicapped Program; and December 28, 1988 for Handicapped Special Studies Program.

ADDRESSES: Comments should be addressed to the following individuals at the Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Joseph Clair for 84.024, 84.026, 84.078, 84.086, and 84.158.

Linda Glidewell for 84.023, 84.159, and 84.180.

FOR FURTHER INFORMATION CONTACT:

Individuals listed above at the following phone numbers: Joseph Clair, (202) 732-4503; or Linda Glidewell, (202) 732-1099.

SUPPLEMENTARY INFORMATION: This notice represents a consolidated notice of fiscal years 1989 and 1990 proposed priorities for discretionary grant programs administered by the Office of Special Education Programs. Publication of these priorities does not preclude the Secretary from publishing additional priorities, nor is there any limitation for the Secretary to fund only these priorities. Closing dates for all fiscal year 1989 competitions will be announced with publication of the final priorities in the fall of 1988 or shortly thereafter. The Department plans to publish additional proposed priorities by November 1, 1989. Following is a summary list of proposed priorities included in this announcement:

Research in Education of the Handicapped Program, 84.023

(1) Research on general education science or mathematics curricula (expected to be selected in FY 1989).

(2) Research on general education teacher planning and adaptation for students with handicaps (expected to be selected in FY 1989).

(3) Small grants program (expected to be selected in FY 1989 and FY 1990).

(4) Research on general education social studies or language arts curricula (expected to be selected in FY 1990).

(5) Research on the delivery of services to students with handicaps from non-standard English, limited English proficiency (including mono-lingual) and/or non-dominant cultural groups (expected to be selected in FY 1990).

(6) Interventions to support junior high school-aged students with handicaps who are at risk of dropping out of school (expected to be selected in FY 1990).

(7) Initial career awards (expected to be selected in FY 1990).

Handicapped Children's Early Education Program, 84.024

(1) Coordinated service delivery for infants and toddlers with identified handicapping conditions (expected to be selected in FY 1989).

(2) Nondirected demonstration (expected to be selected in FY 1989 and FY 1990).

(3) Multi-disciplinary training programs for child care personnel (expected to be selected in FY 1989 and FY 1990).

(4) Information management of services for infants and toddlers (expected to be selected in FY 1989 and FY 1990).

(5) Nondirected experimental projects (expected to be selected in FY 1989 and FY 1990).

(6) State-wide outreach (expected to be selected in FY 1989 and FY 1990).

(7) National or multi-State outreach projects (expected to be selected in FY 1989 and FY 1990).

(8) Early childhood research institute—integrated programs (expected to be selected in FY 1989).

(9) Early childhood research institute—intervention (expected to be selected in FY 1989).

Educational Media Research, Production, Distribution and Training Program, 84.026

(1) Closed-captioned local and regional news (expected to be selected in FY 1989 and FY 1990).

(2) Illiteracy projects (expected to be selected in FY 1989 and FY 1990).

Postsecondary Education Program for Handicapped Persons, 84.078

(1) Postsecondary demonstration projects (expected to be selected in FY 1989).

Programs for Severely Handicapped Persons, 84.086

(1) State-wide systems change (expected to be selected in FY 1989 and FY 1990).

(2) Innovations for meeting special problems of children with severe handicaps in the context of regular education settings (expected to be selected in FY 1989 and FY 1990).

(3) Innovations for meeting special problems of children with deaf-blindness in the context of regular education settings (expected to be selected in FY 1989 and FY 1990).

(4) Validated practices: children with severe handicaps (expected to be selected in FY 1989 and FY 1990).

(5) Validated practices: children with deaf-blindness (expected to be selected in FY 1989 and FY 1990).

(6) Utilization of innovative practices for children with severe handicaps (expected to be selected in FY 1989 and FY 1990).

(7) Utilization of innovative practices for children with deaf-blindness (expected to be selected in FY 1989 and FY 1990).

Secondary Education for Transitional Services for Handicapped Youth Program, 84.158

(1) Training and employment models for youth with handicaps (expected to be selected in FY 1989 and FY 1990).

(2) Secondary and transitional services follow-up, follow-along projects (expected to be selected in FY 1989).

(3) Family networking (expected to be selected in FY 1989 and FY 1990).

Handicapped Special Studies Program, 84.159

(1) State agency/Federal evaluation studies projects (expected to be selected in FY 1989).

(2) Design study for obtaining national estimates of outcome data on children and youth with handicaps (expected to be selected in FY 1989).

Technology, Educational Media and Materials for the Handicapped Program, 84.180

(1) Using technology to improve assessment of children with handicaps (expected to be selected in FY 1989).

(2) Compensatory technology applications (expected to be selected in FY 1989).

Title of Program: Research in Education of the Handicapped Program.

CFDA No.: 84.023.

Purpose: The Research in Education of the Handicapped Program, authorized by Part E of the Education of the Handicapped Act (20 U.S.C. 1441-1444), supports research and related activities, surveys, and demonstration projects relating to the educational and early intervention needs of children with handicaps. Under this program, the Secretary makes awards for research and related activities to assist special education personnel, related services personnel, early intervention personnel, and other appropriate persons, including parents, in improving the special education and related services and early intervention services for infants, toddlers, children, and youth with handicaps; to conduct research, surveys, or demonstrations relating to the provision of services to infants, toddlers, children, and youth with handicaps; and research and related activities, surveys, or demonstrations related to physical education or recreation for children with handicaps.

Proposed Priorities: The Secretary proposes to establish the following priorities for the Research in Education of the Handicapped Program, CFDA No. 84.023. In accordance with the Education Department General Administrative Regulations (EDGAR, 34 CFR 75.105(c)(3)), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary proposes to select for funding only those applications proposing projects that meet one of these priorities.

Priority 1. Research on General Education Science or Mathematics Curricula (CFDA No. 84.023)

The purpose of this priority is to support research projects that analyze general education (kindergarten through grade eight) curricula in (1) mathematics or (2) science using a cross-grade (e.g., primary, elementary and middle grades) perspective to determine the compatibility of the scope, sequence, and presentation (including rate, complexity, informational density, and approach for organizing and presenting content) with the learning characteristics and needs of students with handicapping conditions for whom the regular education curriculum is considered appropriate. In planning the research, investigators must consider the kindergarten through grade eight curriculum in mathematics or science as a whole, not just as a year-by-year treatment, so that assumptions about students' prior knowledge and skills as well as their need for acquisition,

mastery, automaticity, application of skills, and understanding of concepts can be examined. While focusing on the needs of children with handicaps, the investigators must consider current national initiatives in science or mathematics including those of professional associations and the Federal Government to develop standards and new curricula for use in regular primary, elementary and middle school grades.

In conducting the research, investigators must analyze and describe existing and potential alternative curriculum approaches to organizing disciplinary knowledge bases in science or mathematics. For example, in science such alternative approaches might include teaching science through teaching facts, rules and principles; through a process of discovering knowledge; or through describing the natural world. Another approach might be an interdisciplinary focus which attempts to integrate other disciplines with science using a thematic approach or focusing on a certain historical period. In mathematics, alternative approaches to organizing the knowledge base have included designs which emphasize either the logic of the symbol system, or applications associated with its use. Alternative approaches to science or mathematics curriculum design must be described and their implications for educating children with handicaps in kindergarten through grade eight examined.

These alternative approaches for organizing science or mathematics curricula will provide the starting point for analyzing alternative structures for prioritizing, segmenting and arranging science or mathematics content to be covered in kindergarten through grade eight. In addition, potential alternatives for structuring this content must be examined. These analyses must include examination of current curricula scope and sequence, textbooks and supplementary materials. Finally, the structural alternatives for presenting science or mathematics content for kindergarten through grade eight must be examined in relation to the learning characteristics of children with a variety of handicaps, particularly related to needs associated with acquisition, mastery, automaticity, application of skills, and understanding of concepts. The purpose of this activity is to develop guidelines for decision-making related to determining the appropriateness of, establishing priorities for, and adapting or modifying, curriculum goals and objectives for children and youth with handicapping conditions. These

guidelines must make explicit the factors to be considered in making these decisions. Further, the guidelines must be useful to publishers for textbook revision activities, to teachers for analyzing and prioritizing content for students, and to school district personnel who conduct school building or district-wide curriculum revision activities and textbook evaluation and adoption procedures.

To determine the usefulness of the guidelines, investigators must conduct several field tests. These field tests must determine: (1) The usefulness of the guidelines to publishers in the development of new materials and in the revision of existing materials, (2) the extent to which the guidelines help teachers analyze and prioritize content for students, and (3) the utility of guidelines in improving school building or district-wide curriculum revision and textbook evaluation and adoption procedures. Part of the field testing must include obtaining informed judgments about the logic, design, and content of the guidelines from each of the target audiences above. For purposes (2) and (3), the investigators must also conduct field tests in at least four school districts to test the usefulness of the guidelines as implemented in typical settings (classrooms and districts). The target populations for this priority are primary, elementary, and middle school aged students (kindergarten through grade eight) with handicapping conditions. It is anticipated that two cooperative agreements will be funded under this priority: one addressing mathematics curricula and one addressing science curricula.

Priority 2. Research on General Education Teacher Planning and Adaptation for Students with Handicaps (CFDA No. 84.023)

The purpose of this priority is to support research projects that will lead to improved teacher planning, individualization, and adaptation of curricula and instruction for students with handicaps who are educated in general education classrooms. A two-step research program must be conducted that will (1) determine how teachers collect and use student performance data in daily and long-range curricular and instructional planning, and (2) develop and field test interventions that increase teacher skills, confidence and motivation in planning, adapting, and individualizing instruction.

In the first step, each applicant must select one or more school districts and study: (a) The way teachers typically

plan instruction, (b) how teachers collect and use student performance data in their planning activities, (c) how teachers adapt curricula and instruction to enhance the learning of students with handicaps, (d) how teachers individualize instruction to meet the unique learning characteristics of students with handicaps, (e) the kinds of support that teachers need to enhance their planning, individualization, and adaptation of curricula and instruction, and (f) teacher and organizational variables that impede effective planning for individualization and adaptation of curricula and instruction for students with handicapping conditions. Each applicant must, as a part of the application, identify and describe the cooperating school districts and provide information on relevant district, teacher, and student characteristics, including current district and school incentives and support systems (for teacher planning and individualization strategies), the number and percentage of students who are classified as handicapped, and the number and percentage of these students who are being educated in general education classrooms (including the percentage of time and the subject areas for which students are educated in general education classrooms). In carrying out this part of the research, investigators must use a conceptual framework based on previous research that identifies the hypothesized relationships among teacher variables (e.g., skills, confidence, motivation) and organizational support variables (e.g., planning time, consultants, materials) and variables associated with effective planning, individualization and adaptation strategies for students with handicapping conditions.

In the second step, projects must develop and field test interventions that increase or improve teacher planning, adaptation, and individualization activities for students with handicaps. Interventions must be based on a refined conceptual framework that incorporates the findings from step one of the research, including the hypothesized relationships among teacher and organizational variables and intervention variables associated with increased or improved teacher planning, adaptation, and individualization activities for students with handicaps. Field tests must include measures of the effects of implementing the interventions on teacher skills, confidence, and motivation for carrying out effective planning, adaptation, and individualization activities for students with handicaps. The field test design

must employ contrast buildings or classrooms where the interventions are not implemented. Investigators must use a variety of procedures and instruments to measure intervention implementation and effectiveness, and the field tests must be conducted in one or more school districts not involved in step one of the project. The major outcomes of each project must be well-defined interventions, procedures that will enable other districts to implement the interventions, and evidence of the extent to which interventions are effective.

Priority 3. Small Grants Program (CFDA No. 84.023)

This priority provides support for a broad range of research projects that can be completed within a 12-18 month time period, are budgeted at \$75,000 or less for the entire project period, and are focused on the education of infants, toddlers, children, and youth with handicaps consistent with the purpose of the program as stated in 34 CFR 324.1. This priority is for pilot studies, projects that employ new methodologies, descriptive studies, instrument validation studies, projects that synthesize state-of-the-art research and practice, projects for research dissemination and utilization, and projects that analyze extant data bases.

Priority 4. Research on General Education Social Studies or Language Arts Curricula (CFDA No. 84.023)

The purpose of this priority is to support projects that analyze general education kindergarten through grade eight curricula in (1) social studies or (2) language arts using a cross-grade (e.g., primary, elementary and middle grades) perspective to determine the compatibility of the scope, sequence, and presentation (including rate, complexity, informational density, and approach for organizing and presenting content) with the learning characteristics and needs of students with handicapping conditions for whom the regular education curriculum is considered appropriate. In planning the research, investigators must consider the kindergarten through grade eight curriculum in social studies and language arts as a whole, not just as a year-by-year treatment, so that assumptions about students' prior knowledge and skills as well as their need for acquisition, mastery, automaticity, application of skills, and understanding of concepts can be examined. While focusing on the needs of children with handicaps, investigators must consider current national initiatives in social studies or language arts including those of professional

associations and the Federal Government to develop standards and new curricula for use in regular primary, elementary and middle school grades.

In conducting the research, investigators must analyze and describe existing and potential alternative curriculum approaches to organizing disciplinary knowledge bases in social studies or language arts. For example, in social studies such alternative approaches might include social studies as a process for conveying facts, events, and historical trends; social studies as a process for teaching values (e.g., citizenship, capitalism, democracy); social studies as a means to teach general social science principles (e.g., the tenets of economics) rather than details related to historical events (e.g., the Great Depression); social studies as a process for teaching problem solving skills by emphasizing cause-effect relationships; or social studies as a process for reflective inquiry. In language arts, such alternative approaches might include language arts as a process for teaching language skills and knowledge for the purpose of transmitting the culture; language arts as a means for teaching skills that have utilitarian value in our society; or language arts as a means for enhancing the cognitive development of students (by giving students tools to access, process, and interpret information). Alternative approaches to social studies or language arts curriculum design must be described and their implications for educating children with handicaps in kindergarten through grade eight examined.

These alternative approaches for organizing social studies or language arts curricula will provide the starting point for analyzing alternative structures for prioritizing, segmenting and arranging social studies or language arts content to be covered in kindergarten through grade eight. In addition, potential alternatives for structuring this content must be examined. These analyses must include examination of current curricula scope and sequence, textbooks and supplementary materials. Finally, the structural alternatives for presenting social studies or language arts content for kindergarten through grade eight must be examined in relation to the learning characteristics of children with a variety of handicaps, particularly related to needs associated with acquisition, mastery, automaticity, application of skills, and understanding of concepts. The purpose of this activity is to develop guidelines for decision-making related to determining

appropriateness of, establishing priorities for, and adapting or modifying curriculum goals and objectives for children and youth with handicapping conditions. These guidelines must make explicit the factors to be considered in making these decisions. Further, the guidelines must be useful to publishers for textbook revision activities, to teachers for analyzing and prioritizing content for students, and to school district personnel who conduct school building or district-wide curriculum revision activities and textbook evaluation and adoption procedures.

To determine the usefulness of the guidelines, investigators must conduct several field tests. These field tests must determine (1) the usefulness of the guidelines to publishers in the development of new materials and in the revision of existing materials, (2) the extent to which the guidelines help teachers analyze and prioritize content for students, and (3) the utility of the guidelines in improving school building or district-wide curriculum revision and textbook evaluation and adoption procedures. Part of the field testing must include obtaining informed judgments about the logic, design, and content of the guidelines from each of the target audiences above. For purposes (2) and (3), the investigators must also conduct field tests in at least four school districts to test the usefulness of the guidelines as implemented in typical settings (classrooms and districts). The target populations for this priority are primary, elementary, and middle school aged students (kindergarten through grade eight) with handicapping conditions. It is anticipated that two cooperative agreements will be funded under this priority: One addressing social studies curricula and one addressing language arts curricula.

Priority 5. Research on the Delivery of Services to Students with Handicaps from Non-Standard English, Limited English Proficiency (Including Mono-Lingual) and/or Non-Dominant Cultural Groups (CFDA No. 84.023)

The purpose of this priority is to support projects that focus on students with handicaps from non-standard English-speaking, limited English proficiency (including mono-lingual), and/or non-dominant cultural groups. Projects supported under this priority must: (1) Use ethnographic and observational research techniques to identify the cultural and language features of classrooms and related service settings (e.g., speech or occupational therapy provided elsewhere on school grounds) that detrimentally affect the delivery of

educational services to students with handicaps from non-standard English-speaking, limited English proficiency (including mono-lingual), and/or non-dominant cultural groups by general education, special education, and related services personnel; (2) develop and test strategies, including personnel training strategies, for adapting the delivery of educational services to better accommodate the cultural and language patterns of these standards; and (3) develop and test strategies for enhancing the development of the language, social, and survival skills necessary for functioning and learning in special and regular educational and community settings by students with handicaps from non-standard English-speaking, limited English proficiency (including mono-lingual) and/or non-dominant cultural groups. Applicants may select one or more target groups for the research but must thoroughly justify their selection through citing research evidence showing the need to address the particular group(s).

Priority 6. Interventions to Support Junior High School-Aged Students with Handicaps Who Are At Risk for Dropping Out of School (CFDA No. 84.023)

This priority supports research projects that focus on junior high school-aged students who are classified as seriously emotionally disturbed (SED) and students who are classified as learning disabled (LD), and who are at risk for leaving school prior to completion. These projects must develop and field test interventions designed to enhance students' engagement in school. Each applicant must, as part of the application, identify a target school district and provide information on relevant district and student characteristics including the percentage of nonhandicapped students and the percentage of students with handicaps, by handicapping condition, who exit schooling by dropping out. Information and hypotheses as to the reasons district students classified as SED and students classified as LD drop out of school must also be presented along with strategies for keeping these students in school. Hypotheses must be based on a conceptual framework that is drawn from previous special education and general education research regarding school drop-outs and drop-out prevention but tailored to the particular characteristics and circumstances of the target district and its students. This framework must identify school, home, and community factors that result in student engagement in schooling. Indicators of student engagement in

schooling include attendance, participation in school and extra-curricular activities, completion of assignments, development of friendships, as well as commitment to school completion as measured by continuance in schooling during the entire project period. The interventions must address underlying problems rather than correct symptoms associated with students who drop out of school. For example, failing grades must be associated with students who drop out, but to simply give passing grades to students at risk for dropping out is not an acceptable intervention. Projects must develop, implement, and test comprehensive interventions related to these factors. School-based components of interventions must be implemented in general education settings, though they may be implemented in alternative school settings if these settings include nonhandicapped students. Projects must select at least two cohorts of students in successive years and follow them through at least two years of participation in the interventions through their transition to high school and at least to a chronological age that is 6 months past the minimum age for exiting from compulsory schooling as determined by State law or regulations. Research findings from the first cohort of students must be used to adjust (if necessary) the interventions used with the second cohort. In designing the field tests, investigators must concurrently or retrospectively collect information on comparison cohorts of similar students within the district to provide a longitudinal data base for measuring the effectiveness of the interventions. The final (fifth) year's activities must be limited to student follow-up and dissemination of project findings and materials, and thus will entail a reduced level of funding. Each project supported under this priority must include both SED and LD students at risk for dropping out of school.

Priority 7. Initial Career Awards (CFDA No. 84.023)

This priority provides awards to eligible applicants for the support of individuals who have exited from graduate school programs no longer than three years prior to the award to conduct research and related activities focusing on the education of infants, toddlers, children, and youth with handicaps consistent with the purpose of the program as stated in 34 CFR 324.1. The support is intended to allow individuals in the initial phases of careers to initiate and develop promising lines of research that will

improve the education of children with handicaps. The application must include evidence to support the potential contribution to be derived from the proposed line of inquiry that will be pursued during the project period. The applicant must identify, describe, and justify a plan for obtaining sustained involvement with nationally recognized experts having substantive or methodological knowledge and techniques critical to the conduct of the proposed research. These experts may be geographically located at other institutions. The nature of this interaction must be of sufficient frequency and duration for the researcher to develop the capacity to effectively pursue the research into mid-career activities. An applicant may apply for up to three years of funding. At least 50% of the researcher's time must be devoted exclusively to the project.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities set forth in this notice. The Secretary particularly invites comments on priority 6, "Initial Career Awards". Beginning in 1990, the Department is proposing that priority as one strategy for the support of new research investigators in special education, in lieu of the student initiated research competition. However, for Fiscal Year 1989, the Secretary has selected and established from the list of authorized activities under the regulations at 34 CFR 324.10, priorities for student-initiated and field-initiated projects. These competitions will be announced in a separate **Federal Register Notice**.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period, in Room 3529, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Date: Comments must be received on or before November 28, 1988 for this program.

Address: Comments should be addressed to: Linda Glidewell, Division of Innovation and Development, Office of Special Education Program, Department of Education, 400 Maryland Avenue SW (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202.

Contact: Linda Glidewell, Telephone: (202) 732-1099.

Program Authority: 20 U.S.C. 1441-1444.

Title of Program: Handicapped Children's Early Education Program

CFDA No.: 84.024

Purpose: To provide Federal support for a variety of activities designed to address the special problems of infants and children with handicaps, from birth through age eight and their families, and to assist State and local entities in expanding and improving programs and services for those children and their families. Activities include demonstration, outreach, experimental, research and training projects, and research institutes.

Proposed Priorities: The Secretary proposes to establish the following funding priorities for the Handicapped Children's Early Education Program, CFDA No. 84.024. In accordance with the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary proposes to select for funding only those applications proposing projects that meet these priorities.

Priority 1. Coordinated Service Delivery for Infants and Toddlers with Identified Handicapping Conditions (CFDA No. 84.024)

This priority supports demonstration projects that design and evaluate model procedures for actively involving families in (1) the assessment of needs, planning and decision-making that result in the individualized family service plan (IFSP); and (2) the implementation of the plan. Models developed under this priority must build on current research findings regarding family involvement in service programs and family decision-making. The models must identify barriers that hinder family involvement and should identify and develop processes to support and enhance family involvement in the development and implementation of the IFSP. Procedures for implementation of the IFSP must include a case management system for the family that includes interagency coordination of all the early intervention services identified in the IFSP. This system must include strategies for assuring that services stipulated in the IFSP are provided by all identified service providers, that the financial responsibilities related to the delivery of services are met by the responsible agencies, that there is regular communication and coordination among all service providers involved in services to a particular child or family, and that the IFSP is reviewed and revised periodically.

The model must be evaluated using multiple case studies. Cases must

include the families of infants and toddlers with identified handicapping conditions (e.g., children with Down's Syndrome, severe visual and/or hearing impairments, cerebral palsy, myelomeningocele) or with conditions that have a high probability of producing handicaps and that require medical intervention (e.g., extremely low birth weight of less than 750 grams, or AIDS-related complex). To assure that procedures are applicable to a range of families (including two-parent families, single parent families, foster families, families with parents who are developmentally disabled, and low-income families) the cases must also represent a range of families. The evaluation design should include assessment of outcomes for families and children as well as measures of family involvement and satisfaction. Projects must produce a manual delineating the procedures for enhancing family involvement in developing and using the IFSP and for case management to assure coordinated services, as well as sample case studies and outcome data for families who participated in the project.

Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for developing interventions for involving families in the development and implementation of the IFSP. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the interventions and contexts in which they were implemented as well as available cost information.

Priority 2. Nondirected Demonstrations (CFDA No. 84.024)

This priority supports demonstration projects that develop, implement, and evaluate new or improved approaches for serving young children with handicaps (ages birth through eight). Projects funded under this priority must design models that allow young children with handicaps to achieve their optimal functioning level within normalized, nonsegregated environments.

Applications must describe (1) the specific service problem or issue that the project will address; (2) the specific components or procedures of the model and the rationale based on theory, research, or practice evaluation, for those components or procedures; (3) the specific types of students participating in the project (i.e., age, handicapping condition or diagnosis, level of functioning) and (4) an evaluation design that includes functional outcome

measures for the young children with handicaps who participate in the proposed interventions(s). Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for developing interventions for young children with handicaps. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the interventions and the contexts in which they were implemented as well as available cost information.

The Secretary particularly invites applications for demonstration projects that develop models for delivering, coordinating, or supplementing needed developmental, special educational, or related services to infants, toddlers, or preschool-aged children with handicaps who are in day-care programs (home-based, center-based, or home or center based in conjunction with part-day special education preschool programs). This invitational priority responds to the growing number of young children, including children with handicaps, who are placed in day-care services to accommodate the child-care needs of working parents. However, applications that meet this invitational priority will not receive a competitive preference over other applications for demonstration projects that develop, implement, and evaluate new or improved approaches for serving young children with handicaps (ages birth through eight).

Priority 3. Multi-disciplinary Training Programs for Child Care Personnel
(CFDA No. 84.024)

This priority supports demonstration projects that develop and evaluate inservice training models that will prepare professionals and paraprofessionals to provide, coordinate, or enhance early intervention, special education, and related services to infants and toddlers with handicaps and/or preschool-aged children with handicaps. Models projects must provide inservice training for professionals and paraprofessionals who are already engaged in the provision of child care, who have not been trained to serve infants and toddlers with handicaps and/or preschoolers with handicaps, but who are committed to serving these children in programs with nonhandicapped children. In developing their model, applicants must identify existing preschool or child care programs, obtain their commitment prior to submission of the application, and include a narrative description of these programs in the

application. The model may target child care workers (e.g., day care providers, preschool providers) in the corporate or private-for-profit sector as well as in the not-for-profit public or private sector. A model must be based on a conceptual framework that identifies the existing roles and responsibilities of the individuals to be trained, the changes required in those roles to serve children with handicaps, and the skills needed to implement the new roles. A model must directly train personnel to provide, coordinate, or enhance special education or related services to children with handicaps in integrated community based programs. Inservice training procedures and materials must address the training needs of variety of personnel. The model must enable the content and procedures to be tailored to the existing skills and roles of the different trainee groups. In addition to initial training the model must include an array of follow-up and support activities that insures that personnel participating in the training master and implement services to meet the needs of students with handicaps being served in settings with nonhandicapped children. During years 2 and 3, the inservice training model must collect data regarding the number of infants and toddlers or preschool-aged children with handicaps served in the target programs and the types of services provided to the children. Projects must also evaluate the inservice training model through direct assessment of participant skills following the training and after a period of time. At least some measures must be based on direct observation in the service setting using standardized observational rating techniques. Models must be consistent with personnel standards and certification/licensure requirements in their States.

The Secretary especially invites applications from: (a) Local, intermediate education agency or State-operated programs that are interested in placing children with handicaps in programs for nonhandicapped preschool children as a way to integrate handicapped and nonhandicapped children; (b) corporations or organizations that are interested in expanding current child care services to include services for children with handicaps in an integrated setting; and (c) institutions or organizations that have collaborative relationships with entities described in (a) or (b) above. However, applications that meet this invitational priority will not receive a competitive preference over other applications for demonstration projects that develop, implement, and evaluate new or improved approaches for serving

young children with handicaps (ages birth through eight).

Priority 4. Information Management of Services for Infants and Toddlers
(CFDA No. 84.024)

This priority supports demonstration projects to develop or improve and evaluate automated information management systems for tracking, managing, and planning services for young children with handicaps, aged birth through two years of age, and their families, within a State or major urban area. The system must (1) separately track and count the children and families who receive early intervention services; (2) identify the types and location of those services provided and/or needed but not provided; (3) identify the provider and the funding sources (Federal, State, private, or local) for each service provided; (4) alert programs serving preschool-aged children to incoming three year old children, at least three to six month in advance of the children's transition from early intervention services to preschool services; and (5) use data elements compatible with State or regional child count systems.

Applicants must coordinate the program with the State education agency and the State agency designated to administer the Program for Infants and Toddlers With Handicaps in the States where the information system is tested. The system must be coordinated with any other information systems in the State (e.g., health agency systems for tracking specific medical conditions), that overlap in population tracked, intent, or purpose. This may be achieved, for example, by using identifiers compatible with other existing systems, or by merging the existing systems into a single system.

Projects funded under this priority must include an evaluation design that assures that the automated system is operational (i.e., produces information and reports that are accurate and consistent with the system design), that the required information linkages are compatible and reliable, and that the information produced is useful for tracking and planning purposes by the intended users of the information system. It is anticipated that projects funded under this priority will develop the software, documentation, and users' guides that will allow other interested agencies to adopt the information system. Users' guides must provide as much information as possible as to the ways elements of the system can be adapted to fit the data needs or

hardware configurations of other agencies.

Priority 5. Nondirected Experimental Projects (CFDA No. 84.024)

This priority supports investigations of alternative interventions or approaches for serving infants, toddlers, or preschool-aged children with handicaps. Interventions selected for comparison must include those for which information is unavailable regarding their relative effectiveness for particular groups of children or within particular settings or conditions. Projects supported under this priority must:

- (1) Compare the alternative interventions or approaches in typical service settings;
- (2) Conduct the investigations using methodological procedures that will produce unambiguous findings regarding the relative effectiveness of the alternative strategies as well as any findings as to interaction effects between particular approaches and particular groups of children or particular contexts; and
- (3) Include dissemination activities that will lead to improved services for infants, toddlers, or preschool-aged children with handicaps.

Applications must describe (1) the specific problem or issue that the project will address; (2) the specific approaches or interventions that will be compared or validated, including the rationale for selecting particular approaches and previous evaluation information regarding these approaches; (3) specifically, the children targeted by the project (i.e. age, handicapping condition or diagnosis, level of functioning); and (4) an evaluation design that includes functional outcome measures for the young children with handicaps or their families who participate in the proposed intervention(s). Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for developing interventions for young children with handicaps. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the interventions and the contexts in which they were implemented as well as available cost information.

The Secretary particularly invites applications that compare alternative approaches to assessing family strengths and needs as part of the process for developing the individualized family service plans (IFSP) required under Part H of the

Education of the Handicapped Act. Such projects could compare approaches, instruments, or tools commonly used for family assessment across disciplines or within a single discipline to determine their relative effects on the strengths and needs identified, on the process for developing the IFSP, on the document itself, and on the satisfaction of participants in the planning process, including families of infants and toddlers with handicaps. However, applications that meet the invitational priority will not receive a competitive preference over other applications for projects that investigate alternative interventions or approaches for serving infants, toddlers, or preschool-aged children with handicaps.

Priority 6. State-wide Outreach (CFDA No. 84.024)

This priority supports projects that facilitate the implementation throughout a specific State of proven infant, toddler, or early childhood models, or selected components of those models. Projects supported under this priority must:

- (1) Coordinate their dissemination and replication activities with the lead agency for Part H of the Education of the Handicapped Act for early intervention services or the State educational agency for special education and related services;
- (2) Disseminate and replicate proven models, or components of models, that provide services needed to assist children aged 8 and below and their families to achieve the children's optimal functioning. Services at a minimum must contain the following components:
 - (a) Approaches relevant to programming in regular settings including provision for skills necessary to function in integrated educational environments;
 - (b) Team based programming that integrates the delivery of services that includes parents, teachers, therapists and other professional disciplines;
 - (c) Effective involvement of families in the planning and delivery of services; and
 - (d) Interagency coordination when multiple agencies are involved in the provision of services to children;

(3) Evaluate the dissemination and replication activities to determine their effectiveness including their impact on the provision of services to infants, toddlers, and young children with handicaps.

Applicants under this priority must (1) describe the models or components of models selected for outreach activities including a rationale as to the importance of these models; (2) provide

unambiguous evidence as to the effectiveness of the model; (3) describe the specific dissemination and replication activities proposed; and (4) provide a rationale for those activities.

Final reports submitted by projects funded under this priority must include evaluation information as to the effectiveness of the model as implemented by replication sites.

Priority 7. National or Multi-Stage Outreach Projects (CFDA No. 84.024)

This priority supports projects that facilitate the implementation in multiple States of proven infant, toddler or early childhood models, or selected components of those models. Projects supported under this priority must:

- (1) Coordinate their proposed dissemination and replication activities with the lead agency for Part H of the Education of the Handicapped Act for early intervention services or the State educational agency for special education and related services;
- (2) Disseminate and replicate proven models, or components of proven models, that provide services needed to assist young children, aged eight and below to achieve the children's optimal functioning. Services at a minimum must contain the following components:

- (a) Approaches relevant to programming in regular settings including provision for skills necessary to function in integrated educational environments;
 - (b) Team based programming that integrates the delivery of services that includes parents, teachers, therapists and other professional disciplines;
 - (c) Effective involvement of families in the planning and delivery of services; and
 - (d) Interagency coordination when multiple agencies are involved in the provision of services to children;
- (3) Evaluate the dissemination and replication activities to determine their effectiveness including their impact on the provision of services to infants, toddlers, and young children with handicaps.

The models or components of models must be of national significance, providing procedures and information that are not readily available to program sites within States where outreach is planned. The models or components of models must be state-of-the-art, must be based on current theory and research, and must have unambiguous evaluation information regarding effectiveness. In addition, the project should reflect a responsiveness to national needs by addressing one or more components of early intervention or preschool services as outlined in the Education of the

Handicapped Act. Outreach activities may include, but not be limited to: public awareness, product development and dissemination, site development, training and technical assistance. The projects may work with major early childhood associations, provider groups or agencies in disseminating and replicating the proven models, or components of models.

Applicants under this priority must (1) describe the models or components of models selected for outreach activities including a rationale as to the importance of these models; (2) provide unambiguous evidence as to the effectiveness of the model; (3) describe the specific dissemination and replication activities proposed; and (4) provide a rationale for those activities.

Final reports submitted by projects funded under this priority must include evaluation information as to the effectiveness of the model as implemented by replication sites.

Priority 8. Early Childhood Research Institute—Integrated Programs (CFDA No. 84.024)

This priority establishes an Early Childhood Research Institute to develop, field-test, and disseminate intervention strategies to improve the integration of young children with handicaps into a range of preschool, child-care, pre-kindergarten, and kindergarten programs available to non-handicapped children in local communities (whether sponsored by public, private, or corporate agencies). The goal of the institute is to produce validated intervention procedures that service providers can use to adapt to on-going preschool, child-care, pre-kindergarten, and kindergarten programs to appropriately meet the needs of children with a range of handicapping conditions. The institute must conduct a program of research that will:

(1) Work with major early childhood associations and provider groups or agencies to identify major approaches, curricula, or models that are commonly used by preschool, child-care, pre-kindergarten, or kindergarten providers to structure and deliver services for non-handicapped preschool or kindergarten-aged children. These approaches may encompass the entire program or particular program areas (i.e. language development, practical life skills, etc.), but they must be found in communities throughout the Nation;

(2) Identify through analysis of materials and classroom observation the extent to which particular approaches, models, or curricula are compatible with the learning characteristics and educational/related service needs of

preschool-aged children with a range of handicapping conditions as well as program barriers that affect the capacity of the programs to address the special needs of children with a range of handicapping conditions. The results of these analyses must be shared and revised through discussions with major early childhood associations and provider groups or agencies.

(3) Develop and test adaptations of particular approaches, models, or curricula, to meet the special needs of children with a range of handicapping conditions. In developing and testing adaptations, the institute will work with major early childhood associations and provider groups or agencies to (a) select approaches, models, or curriculum that are most promising (based on the analyses of 2 above) for meeting the special needs of children with handicaps; (b) develop adapted activities, materials, curricula, instructional strategies, classroom environments that are compatible with key features of particular approaches and models, but that are also consistent with the learning characteristics and special education/related service needs of children with a range of handicapping conditions; and, (c) test and evaluate the intervention strategies in multiple sites, employing research designs that assure that the effectiveness of the intervention strategy is determined;

(4) Work with major early childhood associations and provider groups and agencies to develop and test materials that would allow public, private, and corporate providers of preschool, child-care, pre-kindergarten, and kindergarten programs for non-handicapped students to adapt their programs to meet the needs of students with a range of handicapping conditions. Materials must be developed that describe adaptations identified in (3) above for particular approaches, models, or curricula. Materials must be developed that outline general principles for providing services for preschool-aged children with various handicapping conditions in integrated preschool and kindergarten settings. Inservice and preservice materials for training early childhood personnel to adapt and modify programs to meet the needs of preschool-aged students with handicaps must also be developed and field tested; and

(5) Provide research training and experience for at least 10 graduate students each year.

The institute must conduct the program of research and development within a conceptual framework that identifies major approaches and models for delivering preschool, child-care, pre-kindergarten, and kindergarten services

to non-handicapped children; the learning characteristic and special education/related service needs of preschool-aged children with a range of handicapping conditions; and program dimensions that impede or facilitate the integration of preschool-aged students with handicaps.

Period of Award: The Secretary will approve one cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the institute for the last two years of the project period, in addition to considering the factors in 34 CFR 75.253(a), the Secretary will consider the recommendation of a review team consisting of three external experts selected by the Secretary and designated Federal program officials. The services of the review team are to be performed during the last half of the institute's second year, and will replace that year's annual evaluation that the recipient is required to perform under 34 CFR 75.590. During all other years of the project, the recipient must comply with 34 CFR 75.590. Costs associated with the services to be performed by the three external members of the review team are to be incorporated into the applicant's proposed budget. In developing its recommendation, the review team will consider, among other factors, the following:

(1) The timeliness and the effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the recipient of the cooperative agreement; and

(2) The degree to which the institute's research design and methodological procedures demonstrate the potential for producing significant new knowledge and products.

Priority 9. Early Childhood Research Institute—Intervention (CFDA No. 84.024)

This priority will establish an Early Childhood Research Institute to develop new or improved interventions for infants and toddlers with handicaps who, because of the nature of their disabilities, require extended medical care in hospital intensive care units and who may require life-supporting technologies and systems of health care. The institute's purpose is to conduct a program of research and development designed to produce information and materials that can be used in concert with the provision of intensive health care and that promote the developmental progress of these

children. The institute's research and development activities must produce information and materials that can be used within intensive care units and that facilitate the successful transition of the child to the home and to community-based services. The research and development activities must consist of two major areas of inquiry.

First, the institute must conduct a program of research to develop new or improved procedures related to the identification, referral, and intervention process. The institute's research must include, but need not be limited to, studies that: (1) Develop exemplary practices related to physician referral, initial family counseling, and tracking of the child's progress and services; (2) identify effective practices and procedures for forming and involving a multidisciplinary team to plan services for the child and family; (3) establish criteria for enlisting the services of different State agencies, including the State Protection and Advocacy agency or other child protection groups; (4) develop exemplary models for determining the point in the child's life when nonmedical interventions can be appropriately and safely implemented; (5) identify a variety of effective nonmedical interventions that are keyed to child developmental needs, child medical needs, family needs and characteristics, and the potential for delivering such services within a hospital intensive care unit; and (6) develop new or improved interventions that will facilitate the transition of the child to the home and to community-based services. The outcomes of this research are expected to lead to improved processes of referral, family counseling, and planning and coordinating services.

Second, the institute must conduct a program of research to develop new or improved organizational structures related to the identification, referral and intervention process. The institute's research must include but not be limited to studies that: (1) Identify the full range of services and personnel needed in a comprehensive hospital-based intensive care unit; (2) develop model organizational structures (including roles, responsibilities, lines of authority, communication, and coordination) for a comprehensive hospital-based intensive care unit; (3) identify exemplary models in involving parents, siblings, friends, and extended family with a multidisciplinary team; (4) develop procedures to prevent or remediate role conflicts among team members; and (5) identify alternative approaches to team composition and team member roles in

providing intervention and transitional services. The outcomes of this research are expected to lead to improved processes for implementing interdisciplinary interventions as well as knowledge related to organizational configurations and disciplinary combinations that will enhance these processes.

It is anticipated that in conducting this research and development effort, a consortium of neonatal intensive care units will participate in order to permit the research objectives to be met and to determine the utility and effectiveness of the new information and materials in a variety of neonatal intensive care units. In forming a consortium of participating neonatal intensive care units, the applicant should consider inclusion of a range of units that currently vary on dimensions of quality and comprehensiveness of services, client characteristics, geographic location, organizational configuration, and intake and transition procedures, as appropriate. In considering transitional processes, the applicant should address the need to develop and field test specific transitional procedures and materials for children and families who require continuing medical care after discharge. In carrying out its research activities, the institute must provide research training and experience for at least 10 graduate students annually.

The institute must conduct the program of research and development within a conceptual framework that identifies major approaches to multidisciplinary team coordination in planning and delivering services, characteristics and needs of children requiring extended medical interventions and their parents, and the organizational structures of intensive care units and relevant service agencies.

Period of Award: The Secretary will approve one cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the AInstitute for the last two years of the project period, in addition to considering the factors in 34 CFR 75.253(a), the Secretary will consider the recommendation of a review team consisting of three external experts selected by the Secretary and designated Federal program officials. The services of the review team are to be performed during the last half of the institute's second year, and will replace that year's annual evaluation that the recipient is required to perform under 34 CFR 75.590. During all other years of the project, the recipient must comply with

34 CFR 75.590. Costs associated with the services to be performed by the three external members of the review team are to be incorporated into the applicant's proposed budget. In developing its recommendation, the review team will consider, among other factors, the following:

(1) The timeliness and the effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the recipient of the cooperative agreement; and

(2) The degree to which the institute's research design and methodological procedures demonstrate the potential for producing significant new knowledge and products.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the address in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period in Room 4092, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Date: Comments must be received on or before **October 31, 1988** for this program.

Address: Comments should be addressed to: Joseph Clair, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202.

Contact: Susan Fowler. Telephone: (202) 732-1084; or Joseph Clair, Telephone: (202) 732-1101.

Program Authority: 20 U.S.C. 1424.

Title of Program: Educational Media Research, Production, Distribution, and Training Program.

CFDA No.: 84.026.

Purpose: To promote the educational advancement of persons with handicaps by providing assistance for: (a) Conducting research in the use of educational media for persons with handicaps; (b) producing and distributing educational media for the use of persons with handicaps, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of persons with handicaps; and (c) training persons in the use of educational media for the instructions of persons with handicaps.

Proposed Priorities: The Secretary proposes to establish the following

funding priorities for the Educational Media, Production, Distribution, and Training Program, CFDA No. 84.026. In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary proposes to select for funding only those applications proposing projects that meet these priorities.

Priority 1. Movies, Mini-Series, and Specials (CFDA No. 84.026)

The purpose of this priority is to support a project which performs closed-captioning of national television movies, mini-series, specials, and regular season series programming, so that persons who are hearing impaired have access to programs broadcast over national television. Applications must:

- (1) Identify the criteria for selecting programs for captioning;
- (2) Indicate the number of television hours to be captioned;
- (3) Discuss the type and use of back-up systems to assure successful, timely captioning; and
- (4) Offer evidence from major networks of willingness to permit captioning of their programs.

Priority 2. Closed-Captioned Local and Regional News (CFDA No. 84.026)

The purpose of this priority is to support projects for the closed-captioning of local television news programs which, at the end of this three year award, will be maintained and continued without additional Federal funding. Applications must:

- (1) Indicate the total number of television hours (first time and repeat) to be captioned per week and the specific method to be used for each hour—real-time, computer assisted, teleprompting, etc.; and
- (2) Offer evidence for obtaining financial commitments for project continuation by the end of the third year.

Priority 3. Illiteracy Projects (CFDA No. 84.026)

The purpose of this priority is to support development projects which analyze the prevalence and nature of illiteracy among persons who are handicapped and develop ways to use educational media and captioning technology to alleviate the problems associated with illiteracy in the work place and in independent living within the community. This priority allows projects to address problem identified by investigators in the field. However, the strategies proposed by investigators

must be consistent with validated approaches in the area of adult literacy. Applications must describe (1) the specific illiteracy-related problem that the project will address including whether the problem is in the workplace or home; (2) how the educational media or captioning application developed, produced, or tested, by the project can be expected to alleviate that problem; and (3) an evaluation design that includes functional outcome measures for individuals with handicaps who have used the educational media or captioning application. The final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for developing and using educational media and captioning to alleviate problems resulting from illiteracy. Quantifiable information from project evaluation activities also must be included.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the address in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period, in Room 4092, Switzer Building, 330 C Street SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Date: Comments must be received on or before October 31, 1988 for this program.

Address: Comments should be addressed to: Joseph Clair, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094 M/S 3409), Washington, DC 20202.

Contact: Ernest E. Hairston, Telephone: (202) 732-1177, or Joseph Clair, Telephone: (202) 732-4503.

Program Authority: 20 U.S.C. 1415, 1452.

Title of Program: Postsecondary Education Programs for Handicapped Persons.

CFDA No.: 84.078.

Purpose: To develop, operate, and disseminate specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for individuals with handicapping conditions.

Proposed Priority: The Secretary proposes to establish the following funding priority for the Postsecondary Education Programs for Handicapped Persons, CFDA 84.078. In accordance

with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary will select for funding only those applications proposing projects that meet these priorities.

Priority 1. Postsecondary Demonstration Projects (CFDA No. 84.078)

This priority supports model projects which provide individuals with mild or moderately disabling conditions other than deafness with adapted or specially designed programs that coordinate, facilitate, and promote the provision of appropriate education of these individuals with their nondisabled peers. These projects are to be targeted to improve the vocational outcomes for youths and adults who have completed or left secondary school programs and who are in need of additional education or training in order to secure and maintain competitive employment. Applicants under this priority must describe in detail how they will accomplish the following tasks:

- (1) Establish strategies for use in locating and serving youth and adults with disabilities who are in need of continued educational services;
- (2) Establish or make use of existing formal cooperative relationships among and between schools (publish secondary and higher educational institutions), vocational rehabilitation agencies, and potential employers;
- (3) Develop individualized programs that detail the goals and objectives necessary for students to obtain the requisite skills for securing competitive employment;
- (4) Achieve appropriate job placements for persons with disabilities served by the project through short term postsecondary educational interventions;
- (5) Provide following-up and follow-along activities for persons with disabilities placed in jobs by the project; and
- (6) Propose training of project participants in relevant aspects of adjustment to the community as well as the workplace.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priority to the address in this notice.

All comments submitted in response to this proposed priority will be available for public inspection during and after the comment period, in Room 4092, Switzer Building, 330 C Street SW.,

Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Date: Comments must be received on or before October 31, 1988 for this program.

Address: Comments should be addressed to: Joseph Clair, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094 M/S 3409), Washington, DC 20202.

For Further Information Contact: Dr. Joseph Rosenstein; Telephone: (202) 732-1176.

Program Authority: 20 U.S.C. 1424a.

Title of Program: Programs for Severely Handicapped Children.

CFDA No: 84.086.

Purpose: To provide Federal financial assistance for demonstration or development, research, training, and dissemination activities for severely handicapped, including deaf-blind, children and youth.

Proposed Priorities: The Secretary proposes to establish the following funding priorities for the Program for Severely Handicapped Children, CFDA No. 84.086. In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary will select for funding only those applications proposing projects that meet these priorities.

Priority 1. State-wide Systems Change (CFDA No. 84.086)

This priority supports projects that do all of the following:

(a) Develop, in conjunction with the Part B State plan, activities to improve the quality of special education and related services in the State for severely handicapped (including deaf-blind) children and youth, birth through 21 years of age, and to change the delivery of these services from segregated to integrated environments;

(b) Significantly increase the number of severely handicapped including deaf-blind children in the State who are served in regular school settings alongside their same-aged nonhandicapped peers;

(c) Evaluate the effectiveness of these activities, including collecting and reporting each year on the number of children with severe handicaps and deaf-blindness in the State in each type of educational setting and showing changes from previous years; and

(d) Evaluate and disseminate information about the project's outcomes.

Applicants under this priority must describe in detail how they will accomplish the following tasks:

(1) Identify resources available in the State to provide the needed services to children and youth who are severely handicapped, including deaf-blind, as well as financial resources available through other agencies or parties.

(2) Establish services needed to assist these children and youth to achieve their most realistic functioning level in normalized, nonsegregated least restrictive environments. These services must include at a minimum:

(i) Delivery of integrated educational services that include providing severely handicapped, including deaf-blind, children who are currently being served in segregated environments with special educational and related services in programs at facilities with nonhandicapped children;

(ii) Movement of participating children and youth to and integration into less segregated environments, with the objective of facilitating the placement of these children in appropriate regular school settings;

(iii) Delivery of curricula relevant to education in integrated settings including the teaching of social integration skills, community referenced skills, and employment skills;

(iv) Activities to promote acceptance of severely handicapped including deaf-blind children and youth by the general public through increasing both the quality and frequency of meaningful interactions of these children and youth with handicapped and nonhandicapped peers and adults;

(v) Delivery of services to meet the unique needs of severely handicapped including deaf-blind children and youth; and

(iv) Effective involvement of families in the planning and delivery of services to their severely handicapped children and youth.

(3) Establish a project advisory board having representation of parents of projects children and youth, including parents of deaf-blind children and youth, providers of services to this population, and State and professional organizations, that is responsible for providing significant input on project management procedures.

(4) Formulate and implement formal, written policies and procedures with relevant State, local and professional organizations for coordinating services provided to the target population, of severely handicapped including deaf-blind children and youth including the

elimination of overlapping and redundant services.

Each applicant must specify the number of deaf-blind students that will benefit from the proposed project.

Priority 2. Innovations for Meeting Special Problems of Children with Severe Handicaps in the Context of Regular Education Settings (CFDA No. 84.086)

This priority supports projects that are designed to develop in-depth, innovative approaches to a particular problem for educating students with severe handicaps in the context of regular educational settings. Towards this end, applicants must provide a description of the setting in which the proposed activities will be carried out, with particular attention paid to the extent to which physical and social integration between students with severe handicaps and students without handicaps exist in the proposed setting. Applicants must provide assurance that the proposed setting has the following prerequisite components: (1) An established system of community-based training; (2) a systematic, data-based educational program, and (3) an established function curriculum. Projects must build upon previous research and demonstration activities in the field and demonstrate a thoughtful synthesis and extension of such work within a complete approach of their own. Projects funded under this priority must describe (1) the specific problem that the project will address; (2) how the proposed approach developed by the project can be expected to alleviate that problem; and (3) an evaluation design that includes functional outcome measures for children and youth who experience severe handicaps who participate in the proposed intervention. Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned and tested for solving specific problems that may arise when students who experience severe handicaps are educated within the context of regular education settings. Quantifiable information from project evaluation activities must also be included.

The Secretary particularly invites applications that address one of the following special problems:

(1) Serving individuals with profound disabilities and/or who are treatment-assisted or otherwise require significant therapeutic or medical intervention;

(2) Designing models for incorporating nonaversive approaches within curriculum and instruction, particularly

for students who present difficult and persistent excess behaviors;

(3) Developing approaches to encourage social support systems for individuals with severe handicaps within educational and community environments;

(4) Establishing innovative approaches to facilitating home-school communication and interactions that serve to benefit the student and the family and that allow for the varied needs and concerns of individual families; or

(5) Developing steps for providing related services within regular education settings.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over applications that meet the priorities described in this notice.

Priority 3. Innovations for Meeting Special Problems of Children with Deaf-Blindness in the Context of Regular Education Settings (CFDA No. 84.086)

This priority supports projects that are designed to develop in-depth innovative approaches to a particular problem for educating students with deaf-blindness in the context of regular educational settings. Toward this end, applicants must provide a description of the setting in which the proposed activities will be carried out, with particular attention paid to the extent to which physical and social integration between students with deaf-blindness and students without handicaps exist in the proposed setting. Applicants must provide assurance that the proposed setting has the following prerequisite components: an established system of community-based training; a systematic, data-based educational program; and an established functional curriculum. Projects must build upon previous research and demonstration activities in the field and demonstrate a thoughtful synthesis and extension of such work within a complete approach of their own. Each applicant must specify the number of deaf-blind students who will benefit from the project.

Final reports submitted by projects under this priority must include both the specific findings of the project as well as general principles that have been learned and tested for solving specific problems that may arise when students who are deaf-blind are educated in the context of regular education settings. Quantifiable information from program evaluation activities must also be included.

The Secretary particularly invites applications that address one of the following special problems:

(1) Serving children and youth with deaf-blindness who have other severe handicaps in extended school year demonstration projects that focus on maintaining and enhancing skills in integrated environments;

(2) Serving children and youth with deaf-blindness who have other profound disabilities and/or who are treatment-assisted or otherwise require significant therapeutic or medical intervention;

(3) Designing models for incorporating nonaversive approaches within curriculum and instruction, particularly for students who present difficult and persistent excess behaviors;

(4) Developing approaches to encourage social support systems for individuals with deaf-blindness within educational and community environments;

(5) Establishing innovative approaches to facilitating home-school communications and interaction that serve to benefit the student and the family and that allow for the varied needs and concerns of individual families;

(6) Developing strategies for providing specialized services such as orientation and mobility within regular educational settings; or

(7) Developing systematic strategies for facilitating movement of individual students with deaf-blindness into regular classrooms, which predominantly serve nonhandicapped students.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over applications that meet the priorities described in this notice.

Priority 4. Validated Practices: Children with Severe Handicaps (CFDA No. 84.086)

This priority supports projects that test solutions to specific problems in the delivery of special education and related services to students with severe handicaps (as defined at 34 CFR 315.4(d)). Projects supported under this priority must use methodological procedures that will produce unambiguous findings regarding the relative effectiveness of different solutions to a specific problem or that use well-designed outcome evaluations to test the effects of a single program or solution. The projects must be designed to improve the services for children and youth with severe handicaps.

Projects funded under this priority must describe (1) the specific problem

that the project will address; (2) the specific solutions that will be compared or validated, including previous evaluation information regarding these approaches; and (3) an evaluation design that includes functional outcome measures for children and youth who experience severe handicaps who participate in the proposed intervention(s). Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for solving specific problems that may arise when students who experience severe handicaps are educated within the context of regular education settings. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the interventions and the contexts in which they were implemented as well as available cost information.

The Secretary particularly invites applications that address one of the following areas:

(1) Improving and expanding social interaction skills in regular classrooms, workplaces, or recreational settings;

(2) Improving curricular and instructional procedures that enhance acquisition, generalization, and maintenance of functional skills and activities;

(3) Improving communication skills of children with severe handicaps in their interaction with peers and others in educational and noneducational settings;

(4) Expanding the activities that support the participation in a range of community-based settings for children with severe handicaps, with such settings to include living environments, recreation-leisure options, transportation options, and neighborhood shopping, educational and cultural settings;

(5) Supported employment for youth with severe handicaps; or

(6) Supported living for children and youth with severe handicaps.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over applications that meet the priorities described in this notice.

Priority 5. Validated Practices: Children with Deaf-Blindness (CFDA No. 84.086)

This priority supports projects that test solutions to specific problems in the delivery of special education and related services to students with deaf-

blindness. Projects supported under this priority must use methodological procedures that will produce unambiguous findings regarding the relative effectiveness of different solutions to a specific problem, or that use well-designed outcome evaluations to test the effects of a single program or solution in addressing the service delivery problem. The projects must be designed to improve the services for children and youth with deaf-blindness as defined at 34 CFR 300.5(b)(2).

Projects funded under this priority must describe (1) the specific problem that the project will address; (2) the specific solutions that will be compared or validated, including previous evaluation information regarding these approaches; and (3) an evaluation design that includes functional outcome measures for children and youth with deaf-blindness who participate in the proposed intervention(s). Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for solving specific problems that may arise when students with deaf-blindness are educated within the context of regular education settings. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the interventions and the contexts in which they were implemented as well as available cost information. Each applicant must specify the number of deaf-blind students that will benefit from the proposed project.

The Secretary particularly invites applications that address one of the following areas:

- (1) Improving and expanding social interaction skills in regular classrooms, workplaces, or recreational settings;
- (2) Improving curricular and instructional procedures that enhance acquisition, generalization, and maintenance of functional skills and activities;
- (3) Improving communications skills of children who are deaf-blind in their interaction with peers and others in educational and noneducational settings;
- (4) Expanding the activities that support the participation in a range of community-based settings for children with deaf-blindness, with such settings to include living environments, recreation-leisure options, transportation options, and neighborhood shopping, educational and cultural settings;
- (5) Supported employment for youth with deaf-blindness; or

(6) Supported living for children and youth with deaf-blindness.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over applications that meet the priorities described in this notice.

Priority 6. Utilization of Innovative Practices for Children with Severe Handicaps (CFDA No. 086)

This priority promotes the adoption and use of innovative practices for the education of students with severe handicaps through the support of technical assistance activities such as inservice training, program replication, and/or product dissemination. The practices are to be selected from current data and best practices and must be justified in the application in terms of their proven ability to address the needs of children with severe handicaps.

Applicants are particularly encouraged to select practices that have been generated and implemented across a range of disciplines that provide services to students with severe handicaps. To document the impact of the project, applicants must identify a focus of the utilization activities and defend the importance of the focus in terms of its impact on the education and quality of life of students with severe handicaps, as defined at 34 CFR 315.4.

Applicants under this priority must propose a project design that (a) defines a target audience for the training or dissemination activities; (b) describes what this target audience is expected to do or to accomplish by participating in the project; (c) describes the utilization activities that are appropriate and well-suited to achieving the described activities with the intended audiences; i.e., inservice training, program replication, and/or product dissemination, as needed to accomplish the selected change; and (d) includes systematic evaluation and reporting of the impact and effectiveness of project activities. Target audiences shall include family members whenever practicable. The Secretary particularly invites applications that address one of the following topics:

- (1) Least restrictive environments for children and youth with severe handicaps;
- (2) Supported employment for youth with severe handicaps;
- (3) Community-based curriculum and instruction for children and youth with severe handicaps;
- (4) Integration of related services for children and youth with severe handicaps into instructional objectives;

(5) Increased participation of parents in the educational process; or

(6) Communication skills of children and youth with severe handicaps.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over applications that meet the priorities described in this notice.

Priority 7. Utilization of Innovative Practices for Children with Deaf-Blindness (CFDA No. 84.086)

This priority promotes the adoption and use of innovative practices for the education of students with deaf-blindness through the support of technical assistance activities such as inservice training, program replication, and/or product dissemination. The practices are to be selected from current data and best practices and must be justified in the application in terms of their proven ability to address the needs of children who are deaf-blind.

Applicants who are particularly encouraged to select practices that have been generated and implemented across a range of disciplines that provide services to students who are deaf-blind. To document the impact of the project, applicants must identify a focus of the utilization activities and defend the importance of the focus in terms of its impact on the education and quality of life of students with deaf-blindness, as defined at 34 CFR 300.5(b)(2).

Applicants under this priority must propose a project design that (a) defines a target audience for the training or dissemination activities; (b) describes what this target audience is expected to do or to accomplish by participating in the project; (c) describes activities that are appropriate and well-suited to achieving the described activities with the intended audience; i.e., inservice training, program replication, and/or product dissemination, as needed to accomplish the selected change; and (d) includes systematic evaluation and reporting of the impact and effectiveness of the project activities. Target audiences must include family members whenever practicable.

The Secretary particularly invites applications that address one of the following topics:

- (1) Least restrictive environments for children and youth with deaf-blindness;
- (2) Supported employment for youth with deaf-blindness;
- (3) Community-based curriculum and instruction for children and youth with deaf-blindness;

(4) Integration of related services for children and youth with deaf-blindness into instruction objectives;

(5) Communication skills of children and youth with deaf-blindness; or

(6) Transitional services from school to independent living or working for youth with deaf-blindness.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over applications that meet the priorities described in this notice.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the address in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period, in Room 4026, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

Date: Comments must be received on or before October 31, 1988 for this program.

Address: Comments should be addressed to: Joseph Clair, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3094-M/S 2313), Washington, DC 20202.

Contact: Sarah Conlon, Telephone: 732-1157; or Joseph Clair, 732-4503.

Program Authority: 20 U.S.C. 1424.

Title of Program: Secondary Education and Transitional Services for Handicapped Youth Program.

CFDA No.: 84.158.

Purpose: To assist handicapped youth in the transition from secondary school to postsecondary environments such as competitive or supported employment and to ensure that secondary special education and transitional services result in competitive or supported employment for handicapped youth.

Proposed Priorities: The Secretary proposes to establish the following funding priorities for the Secondary Education and Transitional Services for Handicapped Youth Program, CFDA No. 84.158. In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 74.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary will select for funding only those applications proposing projects that meet these priorities.

Priority 1. Training and Employment Models for Youth with Handicaps (CFDA No. 84.158)

This priority supports school and community-based model projects for youth with handicaps to be prepared for and placed in competitive or supported work prior to leaving school. This priority responds to growing evidence that youth with handicaps who exit from school may have difficulty obtaining competitive or supported employment despite the vocational programming that may have been offered in school. These students often remain at home for several years before a placement can be found in a job training or supported employment program. By providing employment experiences in settings where the requisite support services are provided by adult service agencies or other public or private providers prior to exit from school, it is more likely that a smooth transition can be made from school to work and adult life. Models funded under this priority must emphasize the following:

- (1) Collaboration with employers;
- (2) Measurement of employer and youth satisfaction;
- (3) Program evaluation with outcome measures to determine initial and continuing employment status;
- (4) Working relationships between education agencies and supported and transitional work efforts at the State and/or local level; and
- (5) Working partnerships with families that demonstrate a commitment to maximizing independence.

The goal of these models is to place youths with handicaps in competitive or supported employment. Supported employment must include paid employment in integrated work settings and ongoing support from adult service agencies or other public or private services.

Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested regarding the preparation of youth with handicaps for competitive or supported employment upon leaving school. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures used to implement the model and the contexts in which the model was implemented.

Priority 2. Secondary and Transition Services Follow-up, Follow-Along Projects (CFDA No. 84.158)

This priority supports school and community-based model projects to improve tracking systems for youth with

handicaps who complete or leave secondary programs and to revise curriculum and/or program options based on continued analyses of outcome data. Models funded under this priority must emphasize the following:

(1) Development or enhancement of procedures for a follow-up/follow-along system for all youth with handicaps who complete or leave secondary education, and

(2) Revision of existing program options to improve outcomes for youth with handicaps completing or leaving school.

This priority is intended to support a variety of strategies to determine the status of "completers" and "leavers" living in our communities. The strategies employed by individual projects must ensure that all existing students are included in status reports. It is expected that outcome measures will be developed to determine how successful our education programs are at preparing youth with handicaps to live and work in the community. Additional information regarding the availability of needed public services and informal supports should be obtained during the follow-up/follow-along process. Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested regarding the preparation of youth with handicaps for employment and adult life upon leaving school. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the follow-up system as well as available cost information.

Priority 3. Family Networking (CFDA No. 84.158)

This priority supports model demonstration projects that build on existing transition planning processes to assist youth with handicaps and their families in identifying, accessing, and using formal and informal networks to obtain needed supports and services to maximize independence in adult life. Applicants under this priority must provide evidence that there is an existing planning process in place that includes the student, his or her family, representatives from the school, and representatives from adult service agencies or other providers in planning for the transition of students who will be exceeding the maximum age for public school services.

Models funded under this priority must assist youth with handicaps and their families in identifying the range of

possible post-school options for living, working, recreation, or post-secondary education, and assessing the supports or services needed by the student to participate in different post-school options. Projects must develop strategies to assist youth with handicaps and their families in identifying potential formal (service agencies, handicapped student services) and informal (extended family, friends) sources of services and supports and in learning to effectively access and use these sources. Persistent barriers to obtaining needed supports or services must also be identified and strategies developed and tested for overcoming these barriers.

Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested regarding the identification, access, and use of formal and informal networks by youth with handicaps and their families to obtain needed supports and services. Common barriers identified to accessing and using various sources for support and service should be described along with any implications for policy makers or service providers. Quantifiable information from project evaluation activities must also be included along with precise information regarding the model procedures, the context in which it was implemented, and available cost information.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the address in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period, in Room 4092, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Date: Comments must be received on or before October 31, 1988 for this program.

Address: Comments should be addressed to Joseph Clair, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3511 M/S 3409), Washington, DC 20202.

Contact: Michael Ward, Telephone: (202) 732-1163 or Joseph Clair, (202) 732-4503.

Program Authority: 20 U.S.C. 1425.

Title of Program: Handicapped Special Studies Program.

CFDA No.: 84.159.

Purpose: To support studies to evaluate the impact of the Education of the Handicapped Act (EHA), including efforts to provide a free appropriate public education and early intervention services to infants, toddlers, and children and youth with handicaps. The results of these studies must be included in the annual report submitted to the Congress by the Department.

Proposed Priorities: Under section 618(c), the Secretary is expressly required to submit to the appropriate committees of each House of the Congress and publish in the **Federal Register** for review and comment proposed annual priorities for evaluations conducted under section 618.

The Secretary proposes priorities under the Handicapped Special Studies Program. In accordance with the Education Department General Administrative Regulations (EDGAR, 34 CFR 75.105(c)(1)), the Secretary proposes under priority 1 to invite applications for cooperative agreements to support certain types of studies. Priority 2 will be addressed through a contract.

Priority 1. State Agency/Federal Evaluation Studies Projects (CFDA No. 84.159)

The purpose of this priority is to support evaluation studies by State agencies to assess the impact and effectiveness of activities assisted under the Education of the Handicapped Act. Within this priority, the Secretary particularly invites studies that: (1) Examine the relationship between State and local administrative factors (e.g., funding formulas, personnel certification, or other policies and procedures) and placement of students with handicaps in regular education environments; (2) examine the impact of various aspects of educational reform (e.g., increased graduation requirements, use of minimum competency testing to determine graduation eligibility, increased academic and curricular requirements, more rigorous promotion policies, etc.) on special education; or (3) examine the relationship between students' educational characteristics and their adult service needs.

In accordance with the Education Department General Administrative Regulations (EDGAR, 34 CFR 75.105(c)(1)), applications for studies described in items (1), (2), and (3) will not receive a competitive or absolute preference over other applications that propose evaluation studies to assess the impact and effectiveness of activities assisted under the Education of the Handicapped Act.

Priority 2. Design Study for Obtaining National Estimates of Outcome Data on Children and Youth with Handicaps (84.159)

This priority would support a contract to provide the methodology for assessing a broad array of outcomes of children and youth with handicaps. Issues of outcome constructs, assessment techniques, and sampling would be addressed. Data collection and costs of competing designs would be projected. The results of this study will be used to develop a source of information that will contribute data on student outcomes that will be incorporated in future Annual Reports submitted to Congress under section 618.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the address in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 3522, Switzer Building, 330 "C" Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Date: Comments must be received on or before December 28, 1988 for this program.

Address: Comments should be addressed to: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3094-M/S 2313), Washington, DC 20202.

Contact: Linda Glidewell, telephone: (202) 732-1099.

Program Authority: 20 U.S.C. 1418.

Title of Program: Technology, Educational Media, and Materials for the Handicapped Program.

CFDA No.: 84.180.

Purpose: The purpose of this program is to support projects and centers for advancing the availability, quality, use, and effectiveness of technology, educational media, and materials in the education of children and youth with handicaps and the provision of early intervention services to infants and toddlers with handicaps. In creating a new Part G, Congress expressed the intent that the projects and centers funded under that part should be primarily for the purpose of enhancing research and development advances and efforts being undertaken by the public or private sector, and to provide necessary linkages to make more efficient and effective the flow from

research and development to application.

Proposed Priorities: The Secretary proposes to establish the following funding priorities for the Technology, Educational Media, and Materials for the Handicapped Program, CFDA No. 84.180. In accordance with the Education Department General Administrative Regulations (EDGAR, 34 CFR 75.105(c)(3)), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary proposes to select for funding only those applications proposing projects that meet one of these priorities.

Priority 1. Using Technology to Improve Assessment of Children with Handicaps (CFDA 84.180)

This priority supports projects that use innovative technologies to advance assessment theory and practice for infants, toddlers, children, and youth with handicaps. Projects must develop and evaluate technology applications which extend beyond the current paper and pencil tests used to measure skill, proficiency, competence or performance of children with handicaps in educational, home, community, or training settings. The cognitive, language, perceptual-motor, academic, vocational, or social proficiency domains can be addressed.

Projects must develop and evaluate technologically based prototypes for advancing assessment theory and practice. These projects are not meant to produce tests or scales but rather to stimulate such development in the future by providing prototypic design features related to any of the following: (a) Item stimuli, (b) sequence of item presentation, (c) expanded response capabilities, or (d) scoring criteria. The innovative methodologies developed may require expansions of traditional psychometric theory to address new procedures for establishing indices of reliability and validity. Projects must address issues of reliability and validity where applicable. Thus, these projects are viewed as development activities providing direction for future test assessment products.

Applications must specify strategies and rationales to justify the development activity including explanations of why the assessment would be important, and what impact the applications of such an assessment might have. Applications must also demonstrate resources and expertise related to the domain(s) being measured and the integration of electronic technologies. The final report must highlight the prototypic design features by describing their nature and evidence to support the extent to which they advance current practice.

Priority 2. Compensatory Technology Applications (CFDA No. 84.180)

This priority supports the innovative development of hardware or software technology prototypes which have market potential. The prototype must alleviate mobility, manipulation, communication or instructional barriers to providing educational opportunities for learners who are handicapped. The prototype may be operated by either the teacher or the learner. The prototype must be designed not only to compensate for a particular learner's handicap but must also be easily modified to accommodate other learners with similar handicaps. Projects must develop working prototypes which use existing technology, where possible, and which capitalize on recent technological advances to enhance the teaching or learning of children with handicaps. Applications must include a plan for the formative evaluation of the innovative adaptations to determine the soundness of the engineering, the adequacy of the design, whether it compensates for the disability, whether it is feasible to operate and maintain in a school setting, and the feasibility for future production and distribution. A final report must include the prototype product as well as a discussion and rationale to support any needed and recommended modifications for the prototype based on the formative evaluation.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the address in this notice.

All comments submitted in response to these proposed priorities will be

available for public inspection during and after the comment period, in Room 3529, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Date: Comments must be received on or before October 31, 1988 for this program.

Address: Comments should be addressed to: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202.

Contact: Linda Glidewell, telephone: (202) 732-1099.

Program Authority: 20 U.S.C. 1461.

Intergovernmental Review

These programs (except Research in Education of the Handicapped and Handicapped Special Studies) are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Dated: September 26, 1988.
(Catalog of Federal Domestic Assistance Numbers: 84.023, Research in Education of the Handicapped; 85.024, Handicapped Children's Early Education Program; 84.026, Educational Media Research, Production, Distribution, and Training Program; 84.078, Postsecondary Education Programs for Handicapped Persons; 84.158, Secondary Educational and Transitional Services for Handicapped Youth Program; 84.159, Handicapped Special Studies Program; 84.180, Technology, Educational Media and Materials for the Handicapped Program)

Linus Wright,

Acting Secretary of Education.

[FR Doc. 88-22336 Filed 9-28-88; 8:45 am]

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Register Federal

Thursday
September 29, 1988

Part V

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 174 and
178

Editorial Corrections and Clarifications;
Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 174, and 178

[Docket No. HM-189F, Amdt. Nos. 107-18, 171-97, 172-114, 173-207, 174-65, and 178-91]

Editorial Corrections and Clarifications

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This amendment corrects editorial errors and makes minor regulatory changes to the Hazardous Materials Regulations (HMR). This action is necessary to reduce misunderstandings of the HMR. The intended effect is to promote accuracy of the HMR. These amendments are minor regulatory changes which will not impose any new requirements on persons subject to the HMR.

EFFECTIVE DATE: September 30, 1988.

FOR FURTHER INFORMATION CONTACT:

Ann Boylan, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, Telephone (202) 366-4488.

SUPPLEMENTARY INFORMATION: In its maintenance of the HMR, RSPA performs an annual review of the regulations to detect errors which may be causing confusion to users. Inaccuracies detected in Title 49, Code of Federal Regulations (CFR), Parts 100 through 199, revised as of October 1, 1987 include typographical errors, incorrect references to other rules and regulations in the CFR, and misstatements of certain regulatory requirements. Additionally, in response to inquiries which RSPA received concerning the clarity of particular requirements specified in the HMR, changes are made which should reduce uncertainties.

Since these amendments do not impose new requirements, notice and public procedure are unnecessary. For the same reason, these amendments are effective without the customary 30-day delay following publication. This will allow the changes to appear in the next revision of 49 CFR.

The RSPA has determined that this rule, as promulgated, is not a major rule under the terms of Executive Order 12291 or significant under DOT implementing procedures (44 FR 11034). A final regulatory evaluation and

environmental assessment were not prepared, as these amendments are not substantive changes to the HMR.

Based on limited information available concerning the size and nature of entities likely to be affected by these amendments, I certify that these amendments will not, as promulgated, have a significant economic impact on a substantial number of small entities.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The following is a section-by-section summary of the amendments:

Appendix A to Subpart B of Part 107

The title of the contact and daytime telephone number for "Motor Carriers" is changed to read: "Chief, Federal Programs Division, Office of Motor Carrier Safety Field Operations, Federal Highway Administration, Department of Transportation, Washington, DC 20590. Day 202-366-1795".

Section 171.7

In paragraph (c)(7), the address for the American Petroleum Institute is corrected to read: "1220 L Street, NW., Washington, DC 20005." In paragraph (c)(9), the address for The Chlorine Institute is changed to read: "2001 L Street NW., Suite 506, Washington, DC 20036." In paragraph (c)(14), the address for The Institute of Makers of Explosives is changed to read: "1120 19th Street, NW., Suite 310, Washington, DC 20036."

Section 172.101

In the Hazardous Materials Table, a comma is added after the word "dry" for the following entries: "Potassium hydroxide, dry solid, flake, bead, or granular" and "Sodium hydroxide, dry solid, flake, bead, or granular". For the entries "Ammonium polysulfide solution", "Dinitrocyclohexylphenol", "Mercury, metallic", "Thiram", "Toluenediamine", and "1,1,1-Trichloroethane", columns 7(a) and (b) are corrected to read "1,2", respectively, for each entry. The entry "Dimethyl chlorothiophosphate" is changed to read "Dimethyl chlorothiophosphate, see Dimethyl phosphorochloridothioate" and entries in columns 3 through 7 are removed for Dimethyl chlorothiophosphate. For the entry "Dimethyl phosphorochloridothioate" the reference "see Dimethyl chlorothiophosphate" is removed and the following entries are placed in columns 3 through 7(b): column 3—"Corrosive material"; column 3(a)—

"NA2267"; column 4—"Corrosive and Poison" column 5(a)—"173.244"; column 5(b)—"173.245"; column 6(a)—"1 quart"; column 6(b)—"1 quart"; column 7(a)—"1,2" and column 7(b)—"4". For the entry "Dichlorobutene", classed as flammable liquid, the quantity per package in column 6(a) is corrected to read "1 quart"; the quantity per package in column 6(b) is corrected to read "10 gallons". For the entries "Isopropyl mercaptan" and "Propyl mercaptan", under column 3(a), the identification number is corrected to read "NA2402".

Section 172.331

In paragraph (d), the word "of" between the words "placards" and "plain" is corrected to read "or".

Section 172.402

Paragraph (g) is obsolete and is removed and reserved.

Section 172.403

A new paragraph (d) is added, which reads: "EMPTY label. See § 173.427(d) of this subchapter for EMPTY labeling requirements."

Part 173, Table of Contents

In the subpart H heading, the term "Radioactive Materials" is removed and replaced with "Irritating Materials", and the order of the heading is changed to read: "Subpart H—Poisonous Materials, Irritating Materials, and Etiologic Agents; Definitions and Preparation". Under the Subpart H heading for § 173.386, the typographical error of "Etiologic" is corrected to read "Etiologic".

Section 173.3a

Paragraph (d) is obsolete and is removed.

Section 173.10

In paragraph (e), line 2, the word "cryogenice" is corrected to read "cryogenic".

Section 173.247

In paragraph (a)(2), the second sentence which reads, "Polyethylene used must be Type III as set forth in Appendix B—Specifications for Plastics to Part 178 of this title." is obsolete and its removed.

Section 173.315

In the table in paragraph (a)(1), under the column entitled "Minimum design pressure (psig)", the reference to "see paragraph (c)(1) of this section." is corrected to read "see paragraph (c) of this section." for the following entries in the column entitled "Kind of gas": Ammonia Solution,

Chloropentafluoroethane (R-115), Chlorotrifluoromethane (R-13), Liquefied petroleum gas, and Refrigerant gas, n.o.s. or Dispersant Gas, n.o.s.

In Note 15 of the Table, in the next to the last sentence, the reference to "§ 172.328(c)" is corrected to read "§ 172.328(d)".

Section 173.403

In paragraph (s), the typographical error of "meams" on line 2 is corrected to read "means".

Section 173.435, Table

In the headings "A₁(C_i) special form" and "A₁(C_i) normal form", (C_i) is corrected to read "(Ci)".

Section 174.715

In paragraph (b), line 5, the word "does" is corrected to read "dose".

Section 174.750

In paragraph (a), line 14, the word "does" is corrected to read "dose".

Section 178.44-12

In footnote 1, referenced in paragraph (b), the address for the Compressed Gas Association, Inc. is corrected to read "Compressed Gas Association, Inc., 1235 Jefferson Davis Highway, Arlington, Virginia 22202."

Section 178.83-3

In paragraph (b), the phrase "18 chrome 8 nickel alloy with 0.08 percent chromium, 8-11 percent nickel" is corrected to read "18 chrome, 8 nickel alloy, with 0.08 percent carbon maximum, 18-20 percent chromium, 8-11 percent nickel".

§ 172.101 Hazardous materials table.

Section 178.118-6

In the table in paragraph (a), footnote 3, line 3, "Director, OHMO" is corrected to read "Director, OHMT".

List of Subjects

49 CFR Part 107

Hazardous materials, Program procedures.

49 CFR Part 171

Hazardous materials transportation, Matter incorporated by reference.

49 CFR Part 172

Hazardous materials transportation, Labeling, Packaging and containers.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 174

Hazardous materials transportation, Carriage by rail.

49 CFR Part 178

Hazardous materials, Shipping container specifications.

In consideration of the foregoing, 49 CFR Parts 107, 171, 172, 174 and 178 are amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for Part 107 continues to read as follows:

Authority: 49 App. U.S.C. 1421(c); 49 App. U.S.C. 1802, 1806, 1808-1811; 49 CFR 1.45 and 1.53 and App. A of Part 1, Pub. L. 89-670 (49 U.S.C. 1653 (d), 1655).

Appendix A to Subpart B—[Amended]

2. In Appendix A to Subpart B, the name of the division and the daytime telephone number for the Office of Motor Carrier Safety Field Operations is changed to read as follows: "Federal Programs Division" and "Day 202-366-1795", respectively.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

3. The authority citation for Part 171 continues to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

§ 171.7 [Amended]

4. In paragraph (c)(7) of § 171.1, the address for the American Petroleum Institute is revised to read: "1220 L Street, NW., Washington, DC 20005."

a. In paragraph (c)(9), the address for The Chlorine Institute is revised to read: "2001 L Street, NW., Suite 506, Washington, DC 20036."

b. In paragraph (c)(14), the address for The Institute of Makers of Explosives is revised to read: "1120 19th Street, NW., Suite 310, Washington, DC 20036."

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS

Communications Regulations

5. The authority citation for Part 172 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1, unless otherwise noted.

6. In § 172.101, the Hazardous Materials Table is amended by revising, in appropriate alphabetical sequence, the entries listed below:

+ / A/ W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Excep-tions	Specific require-ments	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo ves-sel	Pas-senger vessel	Other requirements
(1)	(2)	(3)	(3a)	(4)	5(a)	5(b)	6(a)	6(b)	7(a)	7(b)	7(c)
A	Revised Ammonium polysulfide solution.	ORM-A.....	UN2818	None.....	173,505	173,605	10 gallons...	55 gallons...	1,2	1,2	
	Dichlorobutene.....	Flammable liquid.	NA2924	Flammable liquid.	173,118	173,119	1 quart.....	10 gallons...	1,2	1	
	Dimethyl chlorothiophosphate, see Dimethyl phosphorochlorodithioate.										
	Dimethyl phosphorochlorodithioate.	Corrosive material.	NA2267	Corrosive and poison.	173,244	173,245	1 quart.....	1 quart.....	1,2	4	
	Dinitrocyclohexylphenol.	ORM-A.....	NA9026	None.....	173,505,	173,510	No limit.....	No limit.....	1,2	1,2	
	Isopropyl mercaptan....	Flammable liquid.	NA2402	Flammable liquid.	None	173,141	Forbidden....	10 gallons...	1,3	5	

+ / A / W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Excep-tions	Specific require-ments	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo ves-sel	Pas-senger vessel	Other requirements
(1)	(2)	(3)	(3a)	(4)	5(a)	5(b)	6(a)	6(b)	7(a)	7(b)	7(c)
A	Mercury, metallic.....	ORM-B.....	NA2609	None.....	None	173.860	173.860.....	See 173.860.	1,2	1,2	
	Potassium hydroxide, dry, solid, flake, bead, or granular.	Corrosive material.	UN1813	Corrosive.....	173.244	173.245b	25 pounds...	100 pounds.	1,2	1,2	Keep dry. Do not stow with metals or alloys such as brass, copper, tin, zinc, aluminum, solder, or lead.
	Revised Propyl mercaptan.....	Flammable liquid.	NA2402	Flammable liquid.	None	173.141	Forbidden.....	10 gallons...	1,2	5	
	Sodium hydroxide, dry, solid, flake, bead, or granular.	Corrosive material.	UN1823	Corrosive.....	173.244	173.245b	25 pounds...	200 pounds.	1,2	1,2	Keep dry.
A	Thiram.....	ORM-A.....	NA2771	None.....	173.505	173.510	No limit.....	No limit.....	1,2	1,2	
A	Toluenediamine.....	ORM-A.....	NA1709	None.....	173.505	173.510	No limit.....	No limit.....	1,2	1,2	
A	1,1,1-Trichloroethane..	ORM-A.....	UN2831	None.....	173.505	173.605	10 gallons...	55 gallons...	1,2	1,2	

§ 172.331 [Amended]

7. In paragraph (d) of § 172.331, the word "of" which follows the word "placards" is revised to read "or".

§ 172.402 [Amended]

8. Paragraph (g) of § 172.402 is removed and reserved.

§ 172.403 [Amended]

9. A new paragraph (d) is added to § 172.403 which reads: "EMPTY label. See § 173.427(d) of this subchapter for EMPTY labeling requirements."

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

10. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

PART 173—[Amended]

11. In the Subpart H heading, the words "Radioactive Materials" are removed and replaced with the words "Irritating Materials" and the word order for the heading is changed to read as follows:

Subpart H—Poisonous Materials, Irritating Materials, and Etiologic Agents; Definition and Preparation

a. Under the Subpart H heading in the table of contents for § 173.386, "Etiologic" is corrected to read "Etiologic".

§ 173.3a [Amended]

12. Paragraph (d) of § 173.3a is removed.

§ 173.10 [Amended]

13. In paragraph (e) of § 173.10, the word "cryogenic" is corrected to read "cryogenic".

§ 173.247 [Amended]

14. In paragraph (a)(2) of § 173.247, the second sentence which reads "Polyethylene used must be Type III as set forth in Appendix B—Specifications for Plastics to Part 178 of this title." is removed.

§ 173.315 [Amended]

15. In the table in paragraph (a)(1) of § 173.315, under the column entitled "Minimum design pressure (psig)", the reference "see paragraph (c)(1) of this section." is corrected to read "see paragraph (c) of this section." for the following entries under the column entitled "Kind of gas": Ammonia solution, Chloropentafluoroethane (R-115), Chlorotrifluoromethane (R-13), Liquefied petroleum gas, and Refrigerant gas, n.o.s., or Dispersant gas, n.o.s.

a. In Note 15 of the Table, in the next to the last sentence, the reference to "§ 172.328(c)" is corrected to read "§ 172.328(d)".

§ 173.403 [Amended]

16. In paragraph (s) of § 173.403, the typographical error of "meams" is corrected to read "means".

§ 173.435 [Amended]

17. In the Table of A₁ and A₂ values of radionuclides, in the columns entitled "A₁(C_i) special form", and "A₁(C_i) normal form", (C_i) is corrected to read "(Ci)".

PART 174—CARRIAGE BY RAIL

18. The authority citation for Part 174 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1, unless otherwise noted.

§ 174.715 [Amended]

19. In paragraph (b) of § 174.715, the words "radiation does" are revised to read "radiation dose".

§ 174.750 [Amended]

20. In paragraph (a) of § 174.750, line 14, the word "does" is corrected to read "dose".

PART 178—SHIPPING CONTAINER SPECIFICATIONS

21. The authority citation for Part 178 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR Part 1, unless otherwise noted.

§ 178.44-12 [Amended]

22. In footnote 1 of § 178.44-12, referenced in paragraph (b), the address for the Compressed Gas Association, Inc., is revised to read "Compressed Gas Association Inc., 1235 Jefferson Davis Highway, Arlington, Virginia 22202."

§ 178.83-3 [Amended]

23. In paragraph (b) of § 178.83-3, the phrase "18 chrome 8 nickel alloy with 0.08 percent chromium, 8-11 percent nickel" is revised to read "18 chrome, 8 nickel alloy, with 0.08 percent carbon maximum, 18-20 percent chromium, 8-11 percent nickel".

§ 178.118-6 [Amended]

24. In the table in paragraph (a) of § 178.118-6, footnote 3 line 3, "Director, OHMO" is corrected to read "Director, OHMT".

Issued in Washington, DC, on September 23, 1988, under authority delegated in 49 CFR 1.53.

M. Cynthia Douglass,
*Administrator, Research and Special
Programs Administration.*

[FR Doc. 88-22289 Filed 9-28-88; 8:45 am]

BILLING CODE 4910-60-M

1. The first part of the report deals with the general situation of the country and the progress of the work during the year. It is divided into two main sections: the first section deals with the general situation of the country and the progress of the work during the year, and the second section deals with the results of the work during the year.

2. The second part of the report deals with the results of the work during the year. It is divided into two main sections: the first section deals with the results of the work during the year, and the second section deals with the results of the work during the year.

3. The third part of the report deals with the results of the work during the year. It is divided into two main sections: the first section deals with the results of the work during the year, and the second section deals with the results of the work during the year.

4. The fourth part of the report deals with the results of the work during the year. It is divided into two main sections: the first section deals with the results of the work during the year, and the second section deals with the results of the work during the year.

5. The fifth part of the report deals with the results of the work during the year. It is divided into two main sections: the first section deals with the results of the work during the year, and the second section deals with the results of the work during the year.

6. The sixth part of the report deals with the results of the work during the year. It is divided into two main sections: the first section deals with the results of the work during the year, and the second section deals with the results of the work during the year.

7. The seventh part of the report deals with the results of the work during the year. It is divided into two main sections: the first section deals with the results of the work during the year, and the second section deals with the results of the work during the year.

8. The eighth part of the report deals with the results of the work during the year. It is divided into two main sections: the first section deals with the results of the work during the year, and the second section deals with the results of the work during the year.

9. The ninth part of the report deals with the results of the work during the year. It is divided into two main sections: the first section deals with the results of the work during the year, and the second section deals with the results of the work during the year.

10. The tenth part of the report deals with the results of the work during the year. It is divided into two main sections: the first section deals with the results of the work during the year, and the second section deals with the results of the work during the year.

Register Federal Register

Thursday
September 29, 1988

Part VI

Information Security Oversight Office

32 CFR Part 2003

National Security Information; Standard
Forms; Final Rule

INFORMATION SECURITY OVERSIGHT OFFICE**32 CFR Part 2003****National Security Information; Standard Forms****AGENCY:** Information Security Oversight Office (ISOO).**ACTION:** Final rule.

SUMMARY: This amendment to 32 CFR 2003.20 provides for: (1) the issuance and use of Standard Form 312, "Classified Information Nondisclosure Agreement" (SF 312); and (2) the modification of Paragraph 1 of all previously executed copies of Standard Form 189, "Classified Information Nondisclosure Agreement" (SF 189), to strike the word "classifiable" and to substitute in its place language that clarifies the scope of "classified information" as used in those agreements. From the effective date of this rule, the SF 312 shall be used in lieu of its predecessor nondisclosure agreements, SF 189 and Standard Form 189-A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)" (SF 189-A). ISOO is issuing the SF 312 as a preferred means of clarifying the scope of some language in the SF 189 and the SF 189-A that has been at issue in litigation concerning the constitutionality and legality of certain nondisclosure agreements, including the SF 189. Notwithstanding the changes in some of its language, the SF 312 does not in any way differ from its predecessor nondisclosure agreements with respect to the substance of the information that each is intended to protect. ISOO is clarifying executed copies of the SF 189 to comply with a recent order of the United States District Court for the District of Columbia, to take account of statutory provisions that reflect congressional concern regarding possible ambiguity of the word "classifiable," and to make the language of the SF 189 more consistent with the language of the SF 312 and the SF 189-A.

EFFECTIVE DATE: September 29, 1988.**FOR FURTHER INFORMATION CONTACT:** Steven Garfinkel, Director, ISOO, 202-535-7251.

SUPPLEMENTARY INFORMATION: This amendment to 32 CFR Part 2003 is issued pursuant to section 5.2(b)(7) of Executive Order 12356, "National Security Information," which grants the Director of ISOO the authority to issue standardized security forms, and Paragraph 1 of National Security Decision Directive 84, March 11, 1983,

which directs ISOO to issue a standardized nondisclosure agreement to be signed as a condition of access by all persons cleared for access to classified information. In fulfilling this requirement, ISOO has previously issued two nondisclosure agreements: SF 189, "Classified Information Nondisclosure Agreement," in September 1983; and SF 189-A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)," in November 1986.

On December 29, 1987, ISOO directed agencies to halt further implementation of the SF 189 and SF 189-A as a result of the enactment of section 630 of the Treasury, Postal Service, and General Appropriations Act, 1988, which was part of the Omnibus Continuing Resolution for Fiscal Year 1988 (Pub. L. 100-202). On May 27, 1988, in litigation primarily involving the constitutionality and legality of the SF 189, the United States District Court for the District of Columbia ruled that Section 630 of Public Law 100-202 is unconstitutional (*National Federation of Federal Employees v. United States, et al.*, Civil Action No. 87-2284-OG; *American Federation of Government Employees, et al. v. Garfinkel, et al.*, Civil Action No. 87-2412-OG; *American Foreign Service Association, et al. v. Garfinkel, et al.*, Civil Action No. 88-0440-OG). In a subsequent ruling of July 28, 1988, in the first two of the above-captioned cases, the same court upheld the constitutionality and legality of the SF 189. However, the court also ruled that in order to bring the scope of the word "classifiable" within constitutional limits, the SF 189 must be modified, either (a) by providing each signatory a copy of ISOO's definition of "classifiable information," as published in 52 FR 48367 on December 21, 1987; or (b) by striking the word from executed copies of the agreement. Notwithstanding these rulings upholding the validity of the predecessor nondisclosure agreements, ISOO has concluded that, in lifting the moratorium on the execution of required nondisclosure agreements, a preferred means to deal with the perceived ambiguities in their language is the issuance of a new nondisclosure agreement, the SF 312. The SF 312 avoids as many of these perceived problem areas as possible without changing the substance of the classified information that the nondisclosure agreement is intended to protect. In issuing the SF 312, ISOO does not seek its execution by every cleared Government or industry employee who has already executed an SF 189 or an SF 189-A, since these total over two million

individuals. However, the rule provides that every individual who previously signed an SF 189 or SF 189-A may substitute a signed copy of the SF 312 at his or her own choosing. Also, through this rule ISOO is instructing agencies to enforce the predecessor agreements in a manner that is fully consistent with the enforcement of the SF 312. To help achieve greater consistency, ISOO is complying with the court order by opting to strike the word "classifiable" from the SF 189, while substituting language that clarifies the scope of "classified information," as used in the agreement. This language is taken from the definition of "classifiable" previously published in the Code of Federal Regulations, and adjudged by the District Court to bring the definition within constitutional and legal standards. ISOO has not included the word "classifiable" in the SF 312, and did not previously include it in the SF 189-A, although these agreements are both intended to protect the same information protected by the SF 189. The word "classifiable" had been included in the SF 189 not to introduce concepts separate and distinct from classified information, but to emphasize the need to protect unmarked classified information and information in the process of a classification determination. Therefore, striking the word from the SF 189 is the more consistent of the two options presented by the court, while its concepts remain protected within the scope of classified information.

Concurrent with the issuance of the SF 312, by a letter of this date the ISOO Director is instructing the senior official for information security oversight in each agency that creates or handles classified information to lift the current moratorium on the execution of the "Classified Information Nondisclosure Agreement," imposed by letter of December 29, 1987; and to lift the moratorium on the withdrawal of access to classified information and security clearances, imposed by letter of August 21, 1987, for those cleared persons who refuse to sign the SF 312.

Before issuing the SF 312, ISOO submitted drafts for review and comment to the executive branch agencies most affected by it; to seven Committees or Subcommittees of the Congress most involved with the subject of classified information; and to selected interest groups actively concerned with this subject. ISOO has considered those comments that it has received in response to its solicitations, and, when ISOO concluded that suggested changes were warranted, it has incorporated

these into the SF 312 or this implementing rule. As required by National Security Decision Directive 84, the Department of Justice has concluded that the SF 312 is enforceable in a civil action brought by the United States.

This is not a major rule for purposes of Executive Order 12291.

List of Subjects in 32 CFR Part 2003

Classified information, Executive orders, Information, National security information, Security information.

32 CFR Part 2003 is amended as follows:

PART 2003—NATIONAL SECURITY INFORMATION—STANDARD FORMS

1. The authority citation for 32 CFR Part 2003 continues to read:

Authority: Sec. 5.2(b)(7) of E.O. 12356.

Subpart B—Prescribed Forms

2. Section 2003.20 is revised to read as follows:

§ 2003.20 **Classified Information Nondisclosure Agreement: SF 312; Classified Information Nondisclosure Agreement: SF 189; Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government): SF 189-A.**

(a) SF 312, SF 189, and SF 189-A are nondisclosure agreements between the United States and an individual. The prior execution of at least one of these agreements, as appropriate, by an individual is necessary before the United States Government may grant that individual access to classified information. From the effective date of this rule, September 29, 1988, the SF 312 shall be used in lieu of both the SF 189 and the SF 189-A for this purpose. In any instance in which the language in the SF 312 differs from the language in either the SF 189 or SF 189-A, agency heads shall interpret and enforce the SF 189 or SF 189-A in a manner that is fully consistent with the interpretation and enforcement of the SF 312.

(b) All employees of executive branch departments, and independent agencies or offices, who have not previously signed the SF 189, must sign the SF 312 before being granted access to classified information. An employee who has previously signed the SF 189 is permitted, at his or her own choosing, to substitute a signed SF 312 for the SF 189. In these instances, agencies shall take all reasonable steps to dispose of the superseded nondisclosure agreement or to indicate on it that it has been superseded.

(c) All Government contractor, licensee, and grantee employees, or other non-Government personnel

requiring access to classified information in the performance of their duties, who have not previously signed either the SF 189 or the SF 189-A, must sign the SF 312 before being granted access to classified information. An employee who has previously signed either the SF 189 or the SF 189-A is permitted, at his or her own choosing, to substitute a signed SF 312 for either the SF 189 or the SF 189-A. In these instances, agencies, with the cooperation of the pertinent contractor, licensee or grantee, shall take all reasonable steps to dispose of the superseded nondisclosure agreement or to indicate on it that it has been superseded.

(d) Agencies may require other persons, who are not included under paragraphs (b) or (c) of this section, and who have not previously signed either the SF 189 or the SF 189-A, to execute SF 312 before receiving access to classified information. A person in such circumstances who has previously signed either the SF 189 or the SF 189-A is permitted, at his or her own choosing, to substitute a signed SF 312 for either the SF 189 or the SF 189-A. In these instances, agencies shall take all reasonable steps to dispose of the superseded nondisclosure agreement or to indicate on it that it has been superseded.

(e) The use of the "Security Debriefing Acknowledgement" portion of the SF 312 is optional at the discretion of the implementing agency.

(f) An authorized representative of a contractor, licensee, grantee, or other non-Government organization, acting as a designated agent of the United States, may witness the execution of the SF 312 by another non-Government employee, and may accept it on behalf of the United States. Also, an employee of a United States agency may witness the execution of the SF 312 by an employee, contractor, licensee or grantee of another United States agency, provided that an authorized United States Government official or, for non-Government employees only, a designated agent of the United States subsequently accepts by signature the SF 312 on behalf of the United States.

(g) The provisions of the SF 312, the SF 189, and the SF 189-A do not supersede the provisions of section 2302, Title 5, United States Code, which pertain to the protected disclosure of information by Government employees, or any other laws of the United States.

(h)(1) *Modification of the SF 189.* The second sentence of Paragraph 1 of every executed copy of the SF 189 is clarified to read:

As used in this Agreement, classified information is marked or unmarked classified information, including oral communications, that is classified under the standards of Executive Order 12356, or under any other Executive order or statute that prohibits the unauthorized disclosure of information in the interest of national security; and unclassified information that meets the standards for classification and is in the process of a classification determination as provided in sections 1.1(c) and 1.2(e) of Executive Order 12356, or under any other Executive order or statute that requires protection for such information in the interest of national security.

(2) *Scope of "classified information".* As used in the SF 312, the SF 189, and the SF 189-A, "classified information" is marked or unmarked classified information, including oral communications; and unclassified information that meets the standards for classification and is in the process of a classification determination, as provided in sections 1.1(c) and 1.2(e) of Executive Order 12356 or any other statute or Executive order that requires interim protection for certain information while a classification determination is pending. "Classified information" does not include unclassified information that may be subject to possible classification at some future date, but is not currently in the process of a classification determination.

(3) *Basis for liability.* A party to the SF 312, SF 189 or SF 189-A may be liable for disclosing "classified information" only if he or she knows or reasonably should know that: (i) The marked or unmarked information is classified, or meets the standards for classification and is in the process of a classification determination; and (ii) his or her action will result, or reasonably could result in the unauthorized disclosure of that information.

In no instance may a party to the SF 312, SF 189 or SF 189-A be liable for violating its nondisclosure provisions by disclosing information when, at the time of the disclosure, there is no basis to suggest, other than pure speculation, that the information is classified or in the process of a classification determination.

(i) *Points of clarification.* (1) As used in Paragraph 3 of SF 189 and SF-189-A, the word "indirect" refers to any situation in which the knowing, willful or negligent action of a party to the agreement results in the unauthorized disclosure of classified information even though the party to the agreement does not directly communicate, deliver or

transmit classified information to a person who is not authorized to receive it.

(2) As used in Paragraph 7 of SF 189, "information" refers to "classified information," exclusively.

(3) As used in the third sentence of Paragraph 7 of SF 189 and SF 189-A, the words "all materials which have, or may have, come into my possession," refer to "all classified materials which have or may come into my possession," exclusively.

(j) Each agency must retain its executed copies of the SF 312, SF 189, and SF 189-A in file systems from which the agreements can be expeditiously retrieved in the event that the United States must seek their enforcement. The

copies or legally enforceable facsimiles of them must be retained for 50 years following their date of execution. An agency may permit its contractors, licensees and grantees to retain the executed agreements of their employees during the time of employment. Upon the termination of employment, the contractor, licensee or grantee shall deliver the SF 312, SF 189, or SF 189-A of that employee to the Government agency primarily responsible for his or her classified work.

(k) Only the National Security Council may grant an agency's request for a waiver from the use of the SF 312. To apply for a waiver, an agency must submit its proposed alternative nondisclosure agreement to the Director

of ISOO, along with a justification for its use. The Director of ISOO will request a determination about the alternative agreement's enforceability from the Department of Justice prior to making a recommendation to the National Security Council. An agency that has previously received a waiver from the use of the SF 189 or the SF 189-A need not seek a waiver from the use of the SF 312.

(l) The national stock number for the SF 312 is 7540-01-280-5499.

Dated: September 23, 1988.

Steven Garfinkel,
Director, Information Security Oversight
Office.

[FR Doc. 88-22232 Filed 9-26-88; 8:45 am]

BILLING CODE 6820-KC-M

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